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2014 FEB 21 PM 3: 59

SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

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6 **RE:**) Supreme Court Case No. PRM13-002
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8 **ADOPTION OF MOTION PRACTICE RULES)**
9 **FOR CRIMINAL PROCEEDINGS)**
10 **IN THE SUPERIOR COURT OF GUAM)**
11) **PROMULGATION ORDER NO.**
12) **PRM13-002-01**
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11 This matter came before the court on February 21, 2014 at 9:45 a.m. for a Promulgation
12 Hearing regarding the adoption of motion practice rules for criminal proceedings filed in the
13 Superior Court of Guam. The Subcommittee on the Rules of Criminal Procedure was
14 established to address the adoption of rules and procedures regarding First Appearance:
15 Preliminary Examination and Arraignment under Title 8 of the Guam Code Annotated along
16 with motion practice rules. The Subcommittee met to discuss the adoption of proposed motion
17 practice rules governing criminal proceedings before the Superior Court of Guam and has
18 recommended the adoption of the attached rules and related forms. The proposed rules and
19 related forms were circulated to Guam Bar Association (“GBA”) members and trial judges for
20 comment on November 5, 2013. All comments received were fully considered, and where
21 deemed appropriate by the Subcommittee, incorporated into the proposed rules and
22 recommended to the Supreme Court for adoption. Notice of the Promulgation Hearing was filed
23 on February 17, 2014 and circulated to the GBA members. The public comment period having
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1 expired, the Subcommittee now recommends that the Supreme Court promulgate the proposed
2 motion practice rules and its related forms.

3 Upon the recommendation of the Subcommittee, and under the authority to “make and
4 promulgate rules governing the administration of the judiciary and the practice and procedure in
5 the courts of the judicial branch of Guam,” 48 U.S.C.A. § 1424-1(a)(6), the Supreme Court
6 hereby adopts the proposed motion practice rules and its related forms which are attached as
7 Exhibit A. The motion practice rules and its related forms, shall be effective on April 1, 2014.

8 **SO ORDERED** this 21st day of February, 2014.

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13 **F. PHILIP CARBULLIDO**
14 Associate Justice

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13 **KATHERINE A. MARAMAN**
14 Associate Justice

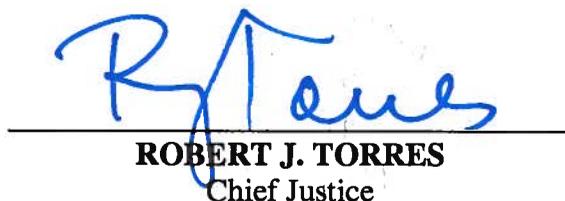
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18 **ROBERT J. TORRES**
19 Chief Justice

EXHIBIT "A"

**LOCAL RULES OF THE SUPERIOR COURT OF GUAM
CRIMINAL PROCEDURE RULES**

CR 1.1 Pleadings and Pretrial Motions

(a) **Applicability.** The provisions of this Rule shall apply to all criminal cases, unless otherwise ordered by the court or provided by statute, or the Local Rules of the Superior Court of Guam.

(b) **Motions.**

(1) **Required Pleadings.** An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought. It shall be supported by a memorandum containing citations of authority and may also be supported by affidavit. The motion shall also include copies of all documentary evidence that the moving party intends to submit in support of the motion. Additionally, all motions and each response or opposition thereto shall contain a statement whether an evidentiary hearing is requested and an estimate of the time required for the presentation of the evidence and/or arguments. The reply brief shall contain a re-estimate of the time or a statement that the original estimate is unchanged.

Source: 8 GCA § 1.27 and Proposed District Court CRLR 12(a)

(2) In addition to the motions required to be filed under Title 8 GCA § 65.15 the following pre-trial motions shall be made in writing:

- i. Motions made pursuant to the Guam Rules of Evidence Rule 404 and Rule 415;
- ii. Motion for reconsideration;
- iii. Any motion to withdraw as counsel made after the first criminal trial setting

(3) **Witness List.** Within twenty-four (24) hours of the scheduled evidentiary hearing, the parties shall file and serve a list of any witnesses the parties call at the time of the hearing.

(c) **Service.** Service of all written motions shall be made in accordance with Title 8 GCA §§ 1.25 and 1.29.

(d) Motion for Reconsideration. A motion may be renewed only on the grounds of

(1) a material difference in fact or law from that presented to the court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

Source: CVR 7.1(i)

(e) Scheduling Order. A criminal trial scheduling order shall be issued by the assigned judge by filing CR 1.1 FORM 1, "Scheduling Order" within ninety (90) days of the case being filed setting the trial date as well as other relevant dates and such scheduling order or portions thereof shall not be vacated or changed without good cause determined by the assigned judge and described on the record orally or in writing. If a criminal case is assigned to a judge more than thirty (30) days after the case is filed, notwithstanding the standard ninety-day deadline described herein, the judge shall issue a criminal trial scheduling order using CR 1.1 FORM 1 within ninety (90) days of the date on which the case was assigned to him or her.

Source: Administrative Rule 13-003 (2013).

(f) Extensions of Time. No continuance shall be granted merely on the stipulation of the parties. If a party is unable to comply with the established schedule despite its diligence, that party shall move for a reasonable extension of time, specifically setting forth the basis for the requested extension, which shall be considered by the court in determining good cause pursuant to subsection (e) above. Such motion shall be made as soon as practicable but, in any event, not later than the date upon which the act was to have been completed.

Source: Proposed District Court CRLR 12(b)

(g) Oral Argument.

- (1) Oral Argument Not Automatic.** Oral argument may be denied at the discretion of the judge, except where oral argument is required by statute.
- (2)** Any party may, but is not required to, either request oral argument or submit a statement that the party represents that oral argument is not necessary by either indicating such on the notice of motion submitted pursuant to CR 1.1(b) or by filing CR 1.1 FORM 2, "Statement Re: Oral Argument and Evidentiary Hearing on Pending Motion" within three (3) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

Source: CVR 7.1(e)

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IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,)	Criminal Case No. _____
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Plaintiff,)	
vs.)	CR 1.1 FORM 1
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)	
Defendant.)	
_____)	

CRIMINAL TRIAL SCHEDULING ORDER

This matter came before the Honorable _____ on _____ for a Criminal Trial Setting hearing. Assistant Attorney General _____ appeared for the People of Guam and Attorney _____ appeared for the Defendant.

Speedy Trial: [] asserted [] waived

Defendant: [] confined [] released

IT IS HEREBY ORDERED that the criminal case schedule proceed as follows:

Discovery must be exchanged pursuant to Title 8 GCA §§ 70.10, 70.25, and 70.40.

Motions & Witness Lists Due: _____

Oppositions to Motions Due: _____

Replies to Oppositions Due: _____

Motion to Compel Discovery by Defense Due: _____

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Hearing on all Motions: _____

Pre-Trial Conference Hearing: _____

Defendant must be present at the Pre-Trial Conference hearing and counsel attending the conference should have the authority to settle the case. All exhibits must be marked and agreed upon jury instructions shall be filed. Objections to the jury instructions must be filed with reasons. If the case is settled, the change of plea will occur at this conference otherwise the change of plea must occur on or before the trial date.

Jury Selection and Trial Date: _____

[] 12 [] 6

Bench Trial: _____

Other: _____

SO ORDERED: _____.

Judge, Superior Court of Guam

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff,

vs.

Defendant.

Criminal Case No. _____

CR 1.1 FORM 2

STATEMENT RE: ORAL ARGUMENT OR EVIDENTIARY HEARING ON PENDING MOTION

[To be filed no later than three (3) days after filing of the last brief on the subject motion or after the time for such filing has elapsed.]

On _____, _____ Movant(s)

filed a motion for an order granting the following relief:

Relief Sought

With respect to said motion, the undersigned hereby:

Requests oral argument on the motion.

The parties have agreed that the motion should be heard on or about:

Parties' proposed hearing date

The parties either have not agreed on a hearing date or have not discussed the matter.

Represents that oral argument on the motion is unnecessary.

Requests for an evidentiary hearing. Estimated time for evidentiary hearing is _____ day(s).

RESPECTFULLY SUBMITTED this _____ day of _____, 20__.

Party Attorney Attorney's Signature

