

1 These new rules are attached hereto, marked Exhibit "A" and incorporated herein by
2 reference. The new rules were effective as of the date of adoption on September 29, 2003.

3 **SO ORDERED**, this 9th day of February, 2004.

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BENJAMIN J.F. CRUZ
Justice Pro Tempore¹

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FRANCES TYDINGCO-GATEWOOD
Associate Justice

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P. PHILIP CARBULLIDO
14 Chief Justice

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28 I do hereby certify that the foregoing
is a full true and correct copy of the
original on file in the office of the
clerk of the Supreme Court of Guam
Dated at Hagatna, Guam

FEB 09 2004


Imelda B. Quenas
Deputy Clerk, Supreme Court of Guam

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¹ Retired Chief Justice Benjamin J.F. Cruz was appointed Justice Pro Tempore for this matter on August 26, 2003. Subsequent to the September 29, 2003 action of the panel, Justice Cruz became ineligible to sit as a Justice Pro Tempore.

Exhibit A

SUPREME COURT OF GUAM RULES GOVERNING ADMISSION TO THE PRACTICE OF LAW

Part F PRO HAC VICE ADMISSION

Section 1 - Admission in Pending Litigation Before a Court or Agency

(a) Definitions

- (i) An “*out-of-state*” lawyer is a person not admitted to practice law in Guam but who is admitted in another state, territory, or commonwealth of the United States or the District of Columbia and not disbarred or suspended from practice in any jurisdiction.
- (ii) An out-of-state lawyer is “*eligible*” for admission pro hac vice if that lawyer:
 - (1) lawfully practices solely on behalf of the lawyer’s employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work; or
 - (2) neither resides nor is regularly employed at an office in Guam; or
 - (3) resides in Guam but (a) lawfully practices from offices in one or more other states and (b) practices no more than temporarily in Guam, whether pursuant to admission pro hac vice or in other lawful ways.
- (iii) A “*client*” is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer’s performance of services in Guam.
- (iv) An “*alternative dispute resolution*” (“ADR”) proceeding includes all types of arbitration or mediation, and all other forms of alternative dispute resolution, whether arranged by the parties or otherwise.
- (v) “Guam” refers to the jurisdiction promulgating this rule. This Rule does not govern proceedings before a federal court or federal agency located in Guam unless that body adopts or incorporates this Rule.

(b) Authority of Court or Agency to Permit Appearance by Out-Of-State Lawyer and Guam Lawyer’s Duties Generally.

- (i) **Court Proceeding.** A court of Guam may, in its discretion, admit an eligible out-of-state lawyer retained to appear in a particular proceeding pending before such court to appear pro hac vice as counsel in that proceeding.

(ii) **Administrative Agency Proceeding.** If practice before an agency of Guam is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of state lawyer who has been retained to appear in a particular agency proceeding to appear as counsel in that proceeding pro hac vice.

(c) **Guam Lawyer's Duties.** When an out-of-state lawyer appears for a client in a proceeding pending in Guam, either in the role of co-counsel of record with the Guam lawyer, or in an advisory or consultative role, the Guam lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the Guam lawyer to advise the client of the Guam lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

(d) **Application Procedure.**

(i) **Verified Application.** An eligible out-of-state lawyer, seeking to appear in a proceeding pending in Guam as counsel pro hac vice shall file a verified application with the court where the litigation is filed. The application shall be served on all parties who have appeared in the case and the Guam Bar Ethics Committee. The application shall include proof of service. The court has the discretion to grant or deny the application summarily if there is no opposition. The applicant shall submit a copy of the verified application and the fee as set forth below to the Supreme Court of Guam.

(ii) **Objection to Application.** The Guam Bar Ethics Committee or a party to the proceeding may file an objection to the application or seek the court's imposition of conditions to its being granted. The Guam Bar Ethics Committee or objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The Guam Bar Ethics Committee or objecting party may seek denial of the application or modification of it. If the application has already been granted, the Guam Bar Ethics Committee or objecting party may move that the pro hac vice admission be withdrawn.

(iii) **Standard for Admission and Revocation of Admission.** The courts and agencies of Guam have discretion as to whether to grant applications for admission pro hac vice. An application ordinarily should be granted unless the court or agency finds reason to believe that such admission:

- (1) may be detrimental to the prompt, fair and efficient administration of justice,
- (2) may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent,

(3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk, or

(4) the applicant has engaged in such frequent appearances as to constitute regular practice in Guam.

(iv) **Revocation of Admission.** Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in Section 1(d)(iii) above.

(e) **Application.**

(i) **Required Information.** An application shall state the information listed on Appendix A to this rule. The applicant may also include any other matters supporting admission pro hac vice.

(ii) **Application Fee.** An applicant for permission to appear as counsel pro hac vice under this Rule shall provide a non-refundable fee of \$1000.00 (One Thousand Dollars) payable to the Supreme Court of Guam, located on the third floor of the Guam Judicial Center, at the time of filing the application. The applicant shall furnish proof of payment to the court where the application is filed.

(f) **Authority of the Supreme Court of Guam and the Guam Bar Ethics Committee: Application of Ethical Rules, Discipline, Contempt, and Sanctions.**

(i) **Authority Over Out-of-State Lawyer and Applicant.**

(1) During pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts and the Guam Bar Ethics Committee for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The applicant or out-of-state lawyer who has obtained pro hac vice admission in a proceeding submits to this authority for all that lawyer's conduct (a) within Guam while the proceeding is pending or (b) arising out of or relating to the application or the proceeding. An applicant or out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as a Guam lawyer.

(2) The court's and the Guam Bar Ethics Committee's authority includes, without limitation, the court's and the Guam Bar Ethics Committee's rules of professional conduct, rules of discipline, contempt and sanctions orders, local court rules, and court policies and procedures.

(ii) **Familiarity With Rules.** An applicant shall become familiar with the rules of professional conduct, rules of discipline of the Supreme Court of Guam, local court rules, and policies and procedures of the court before which the applicant seeks to practice.

Section 2 - Out-of-State Proceedings, Potential Guam and Out-of-State Proceedings, and All ADR

(a) **Guam Ancillary Proceeding Related to Pending Out-of-State Proceeding.** In connection with proceedings pending outside Guam, an out-of-state lawyer admitted to appear in that proceeding may render in Guam legal services regarding or in aid of such proceeding.

(b) **Consultation by Out-of-State Lawyer.**

(i) **Consultation with Guam Lawyer.** An out-of-state lawyer may consult with a Guam lawyer concerning the Guam lawyer's client's pending or potential proceeding in Guam.

(ii) **Consultation with Potential Client.** At the request of a person in Guam contemplating a proceeding or involved in a pending proceeding, irrespective of where the proceeding is located, an out-of-state lawyer may consult in Guam with that person about that person's possible retention of the out-of-state lawyer in connection with the proceeding.

(c) **Preparation for Guam Proceeding.** On behalf of a client in Guam or elsewhere, the out-of-state lawyer may render legal services in Guam in preparation for a potential proceeding to be filed in Guam, provided that the out-of-state lawyer reasonably believes he is eligible for admission pro hac vice in Guam.

(d) **Preparation for Out-of-State Proceeding.** In connection with a potential proceeding to be filed outside Guam, an out-of-state lawyer may render legal services in Guam for a client or potential client located in Guam, provided that the out-of-state lawyer is admitted or reasonably believes the lawyer is eligible for admission generally or pro hac vice in the jurisdiction where the proceeding is anticipated to be filed.

(e) **Services Rendered Outside Guam for Guam Client.** An out-of-state lawyer may render legal services while the lawyer is physically outside Guam when requested by a client located in Guam in connection with a potential or pending proceeding filed in or outside Guam.

(f) **Alternative Dispute Resolution ("ADR") Procedures.** An out-of-state lawyer may render legal services to prepare for and participate in an ADR procedure regardless of where the ADR procedure is expected to take or actually takes place.

(g) No Solicitation. An out-of-state lawyer rendering services in Guam in compliance with this Rule or here for other reasons is not authorized by anything in this rule to hold out to the public or otherwise represent that the lawyer is admitted to practice in this jurisdiction. Nothing in this Rule authorizes out-of-state lawyers to solicit, advertise, or otherwise hold themselves out in publications as available to assist in litigation in Guam.

(h) Temporary Practice. An out-of-state lawyer will only be eligible for admission pro hac vice or to practice in another lawful way only on a temporary basis.

(i) Authorized Services. The foregoing services may be undertaken by the out-of-state lawyer in connection with a potential proceeding in which the lawyer reasonably expects to be admitted pro hac vice, even if ultimately no proceeding is filed or if pro hac vice admission is denied.

APPENDIX A

The out-of-state lawyer application shall include:

- (1) the applicant's residence and business address;
- (2) the name, address and phone number of each client sought to be represented;
- (3) the courts before which applicant has been admitted to practice and the respective period(s) of admission;
- (4) whether the applicant (a) has been denied admission pro hac vice in Guam, (b) had admission pro hac vice revoked in this state Guam, or (c) has otherwise formally been disciplined or sanctioned by any court in this state Guam. If so, specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings, the date filed, and what findings were made and what action was taken in connection with those proceedings;
- (5) whether any formal, written disciplinary proceeding has ever been brought against the applicant by a disciplinary authority in any other jurisdiction within the last five (5) years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (6) whether the applicant has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five (5) years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application);
- (7) the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear pro hac vice in Guam within the preceding two years; the date of each application; and the outcome of the application;
- (8) an averment as to the applicant's familiarity with the rules of professional conduct, rules of discipline of the Supreme Court of Guam, local rules and court procedures of the court before which the applicant seeks to practice; and
- (9) the name, address, telephone number and bar number of an active member in good

standing of the bar of Guam who will sponsor the applicant's pro hac vice request. The bar member will be the lawyer of record for the client(s) the applicant seeks to represent.

(10) Optional: the applicant's prior or continuing representation in other matters of one or more of the clients the applicant proposes to represent and any relationship between such other matter(s) and the proceeding for which applicant seeks admission.

(11) Optional: any special experience, expertise, or other factor deemed to make it particularly desirable that the applicant be permitted to represent the client(s) the applicant proposes to represent in the particular cause.

**SUPREME COURT OF GUAM
RULES GOVERNING ADMISSION
TO THE PRACTICE OF LAW**

**Part H
TEMPORARY PRACTICE BY FOREIGN LAWYERS**

(1) A lawyer who is admitted only in a non-United States jurisdiction shall not, except as authorized by this Rule or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law, or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Such a lawyer does not engage in the unauthorized practice of law in this jurisdiction when on a temporary basis the lawyer performs services in this jurisdiction that:

(a) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(b) are in or reasonably related to a pending or potential proceeding before a tribunal held or to be held in a jurisdiction outside the United States if the lawyer, or a person the lawyer is assisting, is authorized by law or by order of the tribunal to appear in such proceeding or reasonably expects to be so authorized;

(c) are in or reasonably related to a pending or potential arbitration, mediation or other alternative dispute resolution proceeding held or to be held in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice;

(d) are not within paragraphs (b) or (c) and

(i) are performed for a client who resides or has an office in a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization; or

(ii) arise out of or are reasonably related to a matter that has a substantial connection to a jurisdiction in which the lawyer is authorized to practice to the extent of that authorization.

(e) are governed primarily by international law or the law of a non-United States jurisdiction.

(2) For purposes of this grant of authority, the lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority.