

EXHIBIT A

AMENDMENTS TO THE RULES FOR APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS PROMULGATION ORDER NO.: 04-003

PREAMBLE

These Rules shall be effective upon promulgation by the Supreme Court of Guam. The priority of appointments shall be: Public Defender, Interim Private Attorney Panel, active members of the Guam Bar. Until the Standing Committee and regular Private Attorney Panel are formed under Rule 13.3.C, appointments are to be made from the Interim Attorney Panel as provided herein.

RULE 13.3 MANNER OF APPOINTMENT

A. **Priority.** The Supreme Court and each Judge of the Superior Court shall appoint counsel in the order set forth below:

1. The Public Defender Service Corporation;
2. The Private Attorney Panel; and
3. Active members of the Guam Bar Association.

The Supreme Court or a Judge of the Superior Court may, in their discretion, appoint counsel in derogation of the order set forth above. The Supreme Court or a Judge of the Superior Court shall ordinarily appoint the same lawyer or law firms for the same client when said client has more than one pending matter.

More than one attorney may be appointed in any case determined by the Supreme Court or the Judge of the Superior Court assigned to the case to be extremely difficult, giving due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

B. **Interim Private Attorney Panel.**

1. Until the Standing Committee and regular Private Attorney Panel are formed under Rule 13.3.C herein, appointments of counsel for indigent defendants are to be made from an Interim Private Attorney Panel (herein "Interim Panel"). The Chief Justice is authorized to establish a list of attorneys from the Guam Bar Association to be members of the Interim Panel. The Interim Panel shall continue until the formation of the Private Attorney Panel.

2. The Provisions of Rule 13.3.C. 4 and 5 shall apply to the Interim Panel.
3. Compensation for attorneys appointed from the Interim Panel shall be in accordance with Rule 13.5.

C. Private Attorney Panel.

1. Formation of a Standing Committee to Oversee the Private Attorney Panel
 - a) The Supreme Court of Guam shall create a Standing Committee to oversee the Private Attorney Panel (“PAP”). The Standing Committee shall consist of five (5) attorneys, each a voting member, who possess sufficient experience and interest in the local criminal justice system to administer the PAP.
 - b) The Public Defender of Guam, or his or her representative, will be a permanent voting member of the Standing Committee. The Clerks of the Superior and Supreme Courts of Guam, or their respective designees, shall be an ex officio, non-voting members of the Standing Committee.
 - c) In addition to the Public Defender, or his or her representative, two (2) of the members of the Standing Committee will be appointed by the Chief Justice for a one-year term and the remaining two (2) members for a two-year term. Thereafter, appointments will be made for two-year terms. The Standing Committee will be permitted to use the staff of the Clerks Office of the Supreme and Superior Court for clerical and record-keeping matters for respective trial and appellate matters.
 - d) The Standing Committee shall elect from its members who are private attorneys a chairperson, who shall preside over its meetings and serve as the liaison between the PAP, the Judiciary and the community.
 - e) The Standing Committee shall meet formally at least once per year. In addition to reviewing and determining PAP membership, the Standing Committee shall identify and define any operating difficulties encountered in the administration of the PAP and make recommendations to the Supreme Court for appropriate changes to this rule.
 - f) The Standing Committee shall also coordinate with the Public Defender Service Corporation of Guam in providing training for the PAP. Such training shall include correspondence with PAP attorneys on substantive and

procedural changes in the law, local rules, and other matters affecting the PAP attorneys, and shall also include regularly scheduled seminars for PAP attorneys, and if possible, the private bar.

2. Formation of the Private Attorney Panel

- a) Pursuant to the terms of this Rule, PAP attorneys shall be members of the Guam Bar Association. In addition to bar membership, the PAP attorneys should have when applicable, prior criminal trial experience, significant involvement in serious or complex criminal cases, knowledge of the Rules of Criminal Procedure and the bail statutes, knowledge of other relevant areas of criminal practice, clinical experience or participation in trial advocacy programs, prior juvenile, guardian ad litem, and or appellate experience.
- b) The PAP shall consist of attorneys recommended and approved by a majority of the Standing Committee.
- c) An attorney who is interested in becoming a member of the PAP shall complete and submit the attached Private Attorney Panel Application.
- d) The Standing Committee shall compile and review all applications, and prepare a list of applicants who possess the qualifications required for the PAP. The Standing Committee shall also compile a pending applications list, which will include those attorneys requiring more training prior to being placed on the regular PAP list.
- e) These two lists shall be distributed to all members of the Standing Committee, all Justices and Judges, as well as to the Clerk of each Court. Each person receiving the lists shall review them and return them to the Standing Committee with the names of any attorneys absent from the list who should be contacted to ascertain their interest in participating on the PAP. Attorneys interested in being included on the PAP would then be given an opportunity to complete an application.
- f) Those receiving the lists shall also review them to identify the individuals who should not be included on the PAP, and shall state the reason(s) for such recommendation. The reason(s) should be based on the following factors: (a) a perceived lack of competence or knowledge; (b) a perceived lack of interest and motivation; (c) a perceived lack of training; (d) an unwillingness to make the necessary commitment to the PAP; or (e) a lack of willingness to provide the quality of representation deemed necessary. The person making the recommendation should be as specific as possible. concerning the reasons,

with all such recommendations being confidential. The Standing Committee, by majority vote, will make a recommendation to the Supreme Court concerning whether the prospective PAP member should be included on the final PAP. Final decisions regarding membership on the PAP will be made by a majority vote of the standing committee.

- g) The PAP shall consist of approximately 10 - 15 members.
- h) Creation of a Pending Applications List
 - i) A "Pending Applications List" shall be established, consisting of lawyers who have applied for membership on the PAP and who do not yet possess sufficient skill, knowledge or experience to be on the PAP. Pending final approval of their applications, such attorneys shall receive training and shall serve, without compensation, in a second chair capacity to a PAP attorney on a given case, or aspects of a given case, including bail hearings and sentencing proceedings.
 - ii) Each Clerk's Office and the Standing Committee shall maintain the pending applications list. PAP attorneys will be advised of the existence of such a list and will be expected to contact the appropriate Clerk's Office or a Standing Committee member to obtain the names of people seeking to serve in a second chair capacity. The Standing Committee shall then periodically review the pending applications list and make recommendations as to which attorneys should be moved onto the regular PAP.

3. Adding and Removing Attorneys from the Private Attorney Panel

- a) Additions.
 - i) The Standing Committee shall monitor the operation of the PAP to determine whether it meets the needs of current case load requirements. Additions to the PAP shall be made through the approval of new applications and by moving attorneys from the pending applications list to the regular PAP. New applications shall be collected by each Clerk's Office and referred to the Standing Committee for periodic review.
 - ii) By majority vote, the Standing Committee shall decide which applicants need further training, thereby remaining on the pending applications list, and which ones are to be referred to the Supreme

Court for inclusion on the PAP. Final decisions on inclusion will be made by a majority of the Standing Committee.

b) Suspensions

- i) Attorneys who have been suspended or disbarred from a court of any state, territory, commonwealth or possession of the United States and who are the subject of reciprocal discipline pursuant to the Supreme Court of Guam Rules for the Discipline of Attorneys, or who are presented for discipline in the Supreme Court of Guam, shall be suspended from the list pending disposition of the ethics proceedings. If the attorney is counsel of record in a pending case, the trial Judge or the Chief Justice shall be notified by their respective Clerk's Office. If the attorney is suspended or disbarred, the attorney shall be removed from the PAP, and will be eligible to reapply only if he or she later becomes a member Guam Bar Association in good standing.

c) Removals

- i) Any complaints about the performance or commitment of a PAP attorney shall be referred to the Standing Committee. The Standing Committee shall also take notice of such deficiencies on its own and make recommendations to the Supreme Court for removal from the PAP. At the request of a Justice, Judge, Clerk of each court, or individual Standing Committee member, the Standing Committee shall review complaints about a PAP member. The receipt and handling of complaints will be confidential.
- ii) The PAP attorney shall be notified of any complaint, and shall have the right to request a hearing before the Standing Committee. At the hearing, the attorney shall have all due process rights, including representation by counsel, the right to be informed of the nature of the complaint and the right to present testimony on his or her behalf. A recommendation for or against removal shall be by majority vote and forwarded to the Supreme Court for appropriate action. Removal of the attorney from the PAP shall be by majority vote of the standing committee.

4. Assignment of Cases to the Private Attorney Panel

- a) The Clerk's Office of the Supreme Court and the Judges of the Superior

Court shall be responsible for overseeing the assignment of cases to PAP attorneys in the respective courts. Assignments shall be made on a rotational basis, except under circumstances where a Judge or Justice directs otherwise. PAP attorneys may refuse or “pass” an appointment when unavailable to assume the case due to scheduling conflicts, workload, or other good cause. Reasons for passing appointment shall be given to the Clerk of the Supreme Court or the Judge of the Superior Court overseeing the case, and passing may not be done more than three times during a calendar year.

- b) The Clerk’s Office of the Supreme Court and each respective Judge of the Superior Court shall maintain a master list of PAP appointments, which will include the date of each appointment, the case name, the date of each pass by a PAP attorney, and the reason for each pass.
 - c) If the Clerk’s Office of the Supreme Court or a Judge of the Superior Court determines that a PAP attorney has repeatedly passed assignments, the Clerk’s Office of the Supreme Court or a Judge of the Superior Court may refer the name of the attorney to the Standing Committee. The Standing Committee shall then consider the information provided by the Clerk’s Office of the Supreme Court or a Judge of the Superior Court and make such further inquiry or recommendation as it deems appropriate, including removal from the PAP.
 - d) The Clerk’s Office of the Supreme Court and the Superior Court shall also maintain a public record of assignments to the Public Defender Service Corporation of Guam, to the PAP, as well as current statistical data reflecting the proration of appointments.
 - e) The Public Defender Service Corporation of Guam will make such arrangements with local investigative and police agencies as will adequately assure that at the earliest practicable stage, persons arrested under circumstances where representation is required by law may promptly have counsel furnished to them.
5. Rotation of Appointments. All appointments shall be made in an orderly manner to ensure fair distribution of appointments amongst PAP members. Appointments from the PAP shall, unless a Judge in his or her discretion determines otherwise, be in alphabetical order, but the next qualified attorney may be appointed when the court determines that:
- a) there is a conflict of interest;

- b) the attorney lacks sufficient experience in a serious felony matter;
- c) the attorney is unavailable to promptly handle the matter; or
- d) an immediate appointment of counsel is required.

RULE 13.5 COMPENSATION

A. Unless otherwise provided for, the hourly rate for legal services by counsel appointed under these Rules shall be \$90.00 per hour for legal services rendered in and out of the courtroom, subject to the following maximums:

1. Not more than \$7,500.00 shall be paid for felonies.
2. Not more than \$2,500.00 shall be paid for misdemeanors.
3. Not more than \$2,500.00 shall be paid for juvenile cases.
4. Not more than \$2,500.00 shall be paid for each level of appeal in a particular case.

Counsel appointed under these rules may apply to the Administrator of the Courts to exceed these maximums. Counsel must demonstrate extraordinary circumstances and good cause to justify an exception to the maximums. Approval of any amount in excess of the limits herein shall be approved by the Administrator of the Courts with the concurrence of the Justice or Judge presiding over the case.

C. Application for payment by appointed counsel shall be submitted on the appropriate form to the Clerks of the Superior Court and Supreme Court, whichever is applicable. The Administrator of the Courts shall have sixty (60) days to act on the submitted voucher. Failure to act within the sixty-day time period shall be deemed an approval of the submitted voucher.

FINANCIAL DECLARATION

IN SUPPORT OF REQUEST FOR LEGAL COUNSEL WITHOUT PAYMENT OF FEE
 IN THE UNITED STATES TERRITORY OF GUAM: ? Family Court ? Superior Court ? Supreme Court

IN THE CASE OF:

_____ vs. _____
 PERSON REPRESENTED (show your full name):

DOCKET NUMBER

SOCIAL SECURITY NUMBER: _____

CHARGE/OFFENSE (describe if applicable & check box):

1 ? Defendant - Adult	4 ? Provation Violator
2 ? Defendant - Juvenile	5 ? Habeas Petitioner
3 ? Appellant (if so, was counsel previously appointed for you ? Yes ? No	6 ? Other (specify)

? Felony ? Misdemeanor

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

EMPLOYMENT

Are you now employed? ? Yes ? No ? Self Employed. Name and address of employer:
IF YES, how much do you earn per month?
IF NO, give month and year of last employment. _____ How much did you earn per month? \$
 If married, is your spouse employed? ? Yes ? No **IF YES**, how much does your spouse earn per month? \$
 If a minor under age 21, what is your parents' or guardian's approximate monthly income? \$

OTHER INCOME

Have you received within the past year any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, spousal support payments, or other sources? ? Yes ? No

	RECEIVED	SOURCES
IF YES, GIVE THE AMOUNT	\$ _____	_____
RECEIVED & IDENTIFY	\$ _____	_____
THE SOURCES	\$ _____	_____

Are you currently receiving welfare benefits? **AMOUNT** **TYPE OF BENEFIT**
 of any kind? ? Yes ? No **IF YES**, give the amount per month and describe the benefit. \$ _____ _____
_____ _____

CASH

Have you any cash on hand or money in savings or checking accounts? ? Yes ? No **IF YES**, state total amount \$ _____

PROPERTY

Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ? Yes ? No

	VALUE	DESCRIPTION
IF YES, GIVE VALUE AND DESCRIBE	\$ _____	_____
	_____	_____
	_____	_____

DEPENDENTS

MARITAL STATUS

? Single
 ? Married
 ? Widowed
 ? Separated or Divorced

Total No. of Dependents:
 ()

List persons you actually support and your relationship to them.

DEBTS & MONTHLY BILLS

	Creditors (List all creditors including banks, loan companies, charge accounts, etc.	Total Debts	Monthly Payments
APARTMENT OR HOME		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____

I declare under penalty of perjury, the foregoing is true and correct. In addition, by my signature below, I hereby agree to make available to the courts of Guam any and all documents within my possession, or within the possession for the Department of Revenue and Taxation, relating to my financial status.

SIGNATURE OF DEFENDANT (or person to be represented): _____

WARNING: A FALSE OR DISHONEST ANSWER TO A QUESTION IN THIS DECLARATION MAY BE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH. See Title 9, Guam Code Annotated, Sections 52.15 and 52.20.

PRIVATE ATTORNEY PANEL APPLICATION

NAME: _____ SOCIAL SECURITY NO.: _____

ADDRESS: (INCLUDE FIRM NAME, IF ANY) TELEPHONE NO.: _____

DATE OF BAR ADMISSIONS:

STATE/TERRITORIAL COURTS (Specify Jurisdiction): _____
HAVE YOU EVER SERVED ON A PANEL OF THIS NATURE? ____ YES ____ NO
(IF YES, STATE WHERE AND WHEN)

HAVE YOU EVER BEEN EMPLOYED AS A PUBLIC DEFENDER? ____ YES ____ NO
(IF YES, STATE WHERE AND WHEN)

HAVE YOU EVER WORKED AS A PROSECUTING ATTORNEY? ____ YES ____ NO
(IF YES, STATE WHERE AND WHEN)

HAVE YOU EVER ATTENDED TRAINING PROGRAMS FOCUSING ON CRIMINAL PRACTICE?

BAIL STATUTES 9 GCA Chapter 40: ____ YES ____ NO
(IF YES, STATE WHERE AND WHEN)

OTHER: ____ YES ____ NO
(IF YES, STATE WHERE, WHEN & NATURE OF SEMINAR)

QUESTIONS RELATING TO CRIMINAL COURT EXPERIENCE:

HOW MANY TRIALS HAVE YOU PERSONALLY CONDUCTED?

%	JURY TRIALS	_____ %	COURT TRIALS
%	AS DEFENSE ATTORNEY	_____ %	AS PROSECUTOR
%	PRIMARILY RESPONSIBLE	_____ %	SECOND-CHAired

PLEASE GIVE RANGE REGARDING LENGTHS OF THESE TRIALS. _____

HOW MANY GUILTY PLEAS HAVE YOU HANDLED? _____

% AS DEFENSE ATTORNEY _____ % AS PROSECUTOR _____

PLEASE DESCRIBE THE TYPES OF CASES YOU HAVE HANDLED.

PLEASE INDICATE YOUR JUVENILE LITIGATION EXPERIENCE BY PROVIDING EXAMPLES OF YOUR PRACTICE, TYPE OF CASE (JD, J.P., GUARDIAN AD LITEM), FACT FINDING INVOLVEMENT, LENGTH, ETC.

MISCELLANEOUS INFORMATION:

PLEASE INDICATE YOUR CIVIL LITIGATION EXPERIENCE BY PROVIDING EXAMPLES OF YOUR PRACTICE, TYPES OF CASES, TRIAL INVOLVEMENT, LENGTH, ETC.

PLEASE EXPLAIN ANY OTHER RELEVANT EXPERIENCE WHICH EXPLAINS WHY YOU WOULD LIKE TO BE ON THE PAP.

PLEASE EXPLAIN YOUR APPELLATE EXPERIENCE BY PROVIDING THE FOLLOWING INFORMATION: NUMBER OF APPELLATE BRIEFS WRITTEN TO THE GUAM SUPREME COURT, DISTRICT COURT OF GUAM APPELLATE DIVISION, 9TH CIRCUIT COURT OF APPEALS, U.S. SUPREME COURT OR ANY OTHER APPELLATE COURTS

PLEASE EXPLAIN YOUR APPELLATE EXPERIENCE BY PROVIDING THE FOLLOWING INFORMATION: NUMBER OF ORAL ARGUMENTS YOU PARTICIPATED IN BEFORE THE GUAM SUPREME COURT, DISTRICT COURT OF GUAM APPELLATE DIVISION, 9TH CIRCUIT COURT OF APPEALS, U.S. SUPREME COURT OR ANY OTHER APPELLATE COURTS

I HAVE READ THE RULE WHICH GOVERNS THE PRIVATE ATTORNEY PANEL. BY MAKING THIS APPLICATION I AM HEREBY AGREEING TO ABIDE BY THE PROVISIONS AS OUTLINED IN THE RULE.

DATED: _____

SIGNATURE

APPLICATIONS SHOULD BE RETURNED TO CLERK OF SUPREME OR SUPERIOR COURTS.