

FILED

JUN 23 10 12 AM '09

SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

6	RE:)	Supreme Court Case No. PRM 06-006
7	ADOPTION OF THE AMENDED)	
8	INDIGENT DEFENSE RULE OF THE)	
9	LOCAL RULES OF THE)	PROMULGATION ORDER
	SUPERIOR COURT OF GUAM)	NO. 06-006-07

The Standing Committee of the Private Attorney Panel for Indigent Representation was created by the Supreme Court pursuant to Miscellaneous Rule (MR) 1.1.3 (B) of the Local Rules of the Superior Court (formerly Rule 13) for the purpose of overseeing the administration of the Private Attorney Panel. The Standing Committee recommended that amendments be made to MR 1.1.3 (D), relative to the appointment of counsel for appeals, and MR 1.1.5 (A)(4), relative to the maximum compensation for appellate cases. On May 11, 2009, the proposed amendments were circulated to members of the Guam Bar Association for their review and comment. Comments on the proposed amendments were due thirty (30) days thereafter.

After reviewing and considering the comments received from the members of the bar, members of the Standing Committee recommended that the amendments be adopted.

Therefore, pursuant to the authority to "make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam," 48 U.S.C. § 1424-1(a)(6), the Supreme Court hereby amends and restates MR 1.1.3(D) and MR 1.1.5 (A)(4), respectively, to read as follows:

MR 1.1.3. MANNER OF APPOINTMENT

.....

D. Counsel appointed under these Rules shall, unless excused by order of the court, continue to act for the person throughout the proceedings in this court. Appointed counsel is expected to appear personally at all proceedings, with substitutions or the filing of additional appearance permitted only with leave of the court. The judge before whom a case is pending may, in the interest of justice substitute one appointed counsel for another at any stage of the proceedings.

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1 In all criminal cases, trial counsel shall advise the defendant of the right to appeal and of
2 the right to counsel on appeal. If requested to do so by the defendant in a criminal case,
3 trial counsel shall file a timely Notice of Appeal in the Superior Court of Guam, and shall
4 simultaneously file a motion for the appointment of appellate counsel with the Supreme
5 Court of Guam. A copy of the Notice of Appeal should be attached to the motion for
6 appointment of appellate counsel. Such motion shall indicate whether (1) trial counsel is
7 a member of the appellate panel, and (2) whether trial counsel wishes to remain as
8 appellate counsel. Upon the filing of such motion, the Supreme Court shall issue an order
9 appointing appellate counsel for all appellate proceedings from the list of attorneys on the
10 approved appellate panel. There is therefore no requirement that trial counsel be
11 automatically appointed as appellate counsel, should an appeal be taken. Upon
12 appointment, appellate counsel shall represent the defendant, until the matter, including
13 appeals or review by certiorari, is closed; until substitute counsel has filed a notice of
14 appearance; until an order has been entered allowing or requiring the person represented
15 to proceed pro se; until the appointment is terminated by court order; or until the attorney
16 is relieved by the court.

11 **MR 1.1.5. COMPENSATION.**

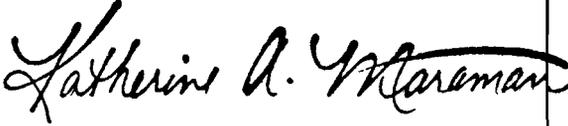
12 A. Unless otherwise provided for, the hourly rate for legal services by counsel
13 appointed under these Rules shall be \$90.00 per hour for legal services rendered in and
14 out of the courtroom, subject to the following maximums:

15 4. Not more than \$7,500 shall be paid for each level of appeal in a particular case.

16 The Rules, as amended and restated, shall apply to all actions, cases and proceedings brought
17 after the instant Promulgation Order takes effect and to all actions, cases and proceedings
18 commenced prior to the effective date hereof and still pending, except to the extent that the
19 application of the amended Rules to those pending actions, cases and proceedings would not be
20 feasible, or would work injustice, in which event the prior valid Indigent Defense Rule,
21 Miscellaneous Rules 1.1.3(D) and 1.1.5(A)(4) of the Local Rules of the Superior Court, shall apply.

22 **SO ORDERED** this 28th day of July, 2009

23 
24 **F. PHILIP CARBULLIDO**
Associate Justice



25 **KATHERINE A. MARAMAN**
Associate Justice

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27 **ROBERT J. TORRES**
Chief Justice