

IN THE SUPREME COURT OF GUAM

TERRITORY OF GUAM

Supreme Court Resolution 97- 001R

Whereas, the Supreme Court of Guam has the statutory and inherent power to adopt rules governing the administration of this Court;

Whereas, 7 GCA §3103 provides generally for the devolution of the Chief Justice's powers when he or she is unavailable;

Whereas, the en banc Supreme Court of Guam finds it appropriate to identify the manner in which unavailability and seniority are determined for purposes of 7 GCA §3103, and also finds it appropriate to formalize the procedure for the assignment of part-time Justices and Designated Justices to appellate panels and other duties on the Court;

THEREFORE, BE IT RESOLVED that the Supreme Court of Guam hereby adopts the following as Rule 35 of the Guam Rules of Appellate Procedure:

a) Performance of Chief Justice's duties when unavailable.

(1) Pursuant to 7 GCA §3103 (l) and (m), the duties of the Chief Justice shall be exercised by the duly appointed Chief Justice but if he or she is unavailable to act due to illness, leave, absence from the Territory of Guam; or as a result of disqualification, conflict or recusal; the next most senior full-time Justice who is not unavailable will act in his or her stead. If the Chief Justice is unavailable due to absence, leave or general incapacity; the duties associated with that office will pass to the successive Justice. If the Chief Justice is unable to act in a particular matter, that matter and the authority to act upon it will pass to the successive Justice. The Chief Justice, despite being in a leave status due to illness or other cause, remains available so long as he or she is willing and able to administer the Court and to execute the duties of that position.

**ORIGINAL**

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(2) As to the above succession, if all full-time Justices are unavailable, then the duty or duties of the Chief Justice shall be assumed by the most senior part-time Justice who is available. If all part-time Justices are unavailable, the most senior Designated Justice sitting regularly as a Judge on the Superior Court of Guam will act as the Chief Justice.

(3) For the purposes of this Rule, seniority is determined by the date that each Justice is sworn to perform the duties of that office. The seniority of Designated Justices who sit regularly as Superior Court Judges will be determined by the date on which they were appointed to the particular matter which is then the occasion for their designation. Where several Justices, within a category described above, are sworn on the same date the order of their swearing will determine the order of precedence. In the event that two or more Judges of the Superior Court are appointed on the same date as Designated Justices, to hear a matter pending at the time this rule is invoked, precedence among these shall be determined by their respective seniority as Judges in the Superior Court of Guam.

### b) Assignments.

(1) Three-Justice panels of the Court will be comprised of the Court's full-time Justices. When less than three full-time Justices are available the following procedure will be used to appoint part-time Justices. The Chief Justice shall appoint the most senior part-time Justice to the first such assignment which is made after this Rule is established. In the event that this Justice is unavailable due to illness, absence from the Territory, disqualification, conflict or recusal, the assignment shall fall upon the next most senior part-time Justice. The next subsequent assignment shall be made to the next most senior part-time Justice following the Justice who received the previous assignment. When all part-time Justices have been so assigned the rotation will commence from the beginning and proceed in a consistent rotation.

(2) If no part-time Justice is available, the Chief Justice may discretionarily assign, based upon considerations of availability, cost and judicial expediency; any one of the Designated Justices who are then serving in such capacity pursuant to 7 GCA §3103(b). In the event no Designated Justice is available, or the Chief Justice determines that interests of judicial economy or expediency require the use of a judicial officer then serving on the Superior Court of Guam, the Chief Justice may request that a Superior Court Judge be designated, per 7 GCA §3103(f), to hear a particular matter. For purposes of this rule, each case heard will be considered a separate assignment.

(3) This rule is provided for the administrative purpose of ensuring an even distribution of work across the part-time Justices of the Court. A deviation from the prescribed procedure

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provides no basis for challenge to the decision of any panel of the Court, and the Chief Justice may, in his discretion and for good cause, depart from the assignment rotation identified here at any time.



PETER C. SIGUENZA

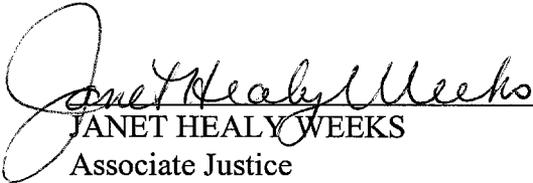
Chief Justice

Dated: 7-20-97

JOAQUIN C. ARRIOLA, SR.

Associate Justice (P.T.)

Dated: \_\_\_\_\_



JANET HEALY WEEKS

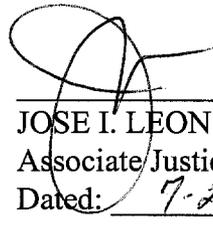
Associate Justice

Dated: \_\_\_\_\_

EDUARDO A. CALVO

Associate Justice (P.T.)

Dated: \_\_\_\_\_



JOSE I. LEON GUERRERO

Associate Justice (P.T.)

Dated: 7-23-97