

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

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MISCELLANEOUS RULES**

Effective October 2, 2007

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MISCELLANEOUS RULES

EFFECTIVE OCTOBER 2, 2007

NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in these Miscellaneous Rules were altered to adhere to the Compiler's alpha-numeric scheme. (May 22, 2014)

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- MR 1.1.2. Determination of Need.
- MR 1.1.3. Manner of Appointment.
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- MR 1.2. Post Judgment Appearance and Violations.
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(see PAP list at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>)
- C. Private Attorney Panel Application
(available on the Supreme Court’s website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>)

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- A. Notice of Conversion of Case to Collection Court Docket under 9 GCA § 80.56.
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- A. Standard Operating Procedures for Video Conferencing Magistrate Hearing.
- B. Flowchart.
- C. Order of Conditional Release and Appearance Bond.

Miscellaneous Rule 4.1 - Court-Referred Mediation Rules

- A. Model Standards for Conduct of Mediators.
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- B1. Mediation Certification
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Miscellaneous Rule 5.1 - Small Claims Rules and Procedures

Small Claims Court Forms can be found at two locations:

- A. Judiciary website - <http://www.guamcourts.org/Small%20Claims/forms.html>; or
- B. Guam Self Represented Litigants website - <http://www.guamselfhelp.org/form.asp>.

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INDIGENT DEFENSE

MR 1.1. Appointment of Counsel for Indigent Defendants.

NOTE: These rules were adopted by the Judicial Council in 1981 and published as the Rules for Appointment of Counsel for Indigent Defendants in the Guam Bar Journal, RAINY SEASON - 1981, Volumes 3 & 4. On November 19, 2002, in Promulgation Order 02-009, the Supreme Court of Guam amended and revised these rules as Rule 13 of the Rules of the Superior Court of Guam. On May 3, 2007, in Promulgation Order 06-006-01, the Supreme Court re-codified this rule as MR 1.1 of the Miscellaneous Rules of the Local Rules of the Superior Court of Guam. Amendments to these rules are herein indicated.

MR 1.1.1. Representation.

(a) **Mandatory.** The court shall appoint counsel for a person financially unable to obtain adequate representation who is:

- (1) charged with
 - (A) a felony;
 - (B) a misdemeanor;
 - (C) a petty misdemeanor except those filed in Traffic Court
 - (D) juvenile delinquency for the commission of an act which, if committed by an adult, would be considered a felony or misdemeanor; or,
 - (E) a violation of probation or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of probation;
- (2) in custody as a material witness;
- (3) under arrest, when representation is required by law; or,
- (4) entitled to appointment of counsel under the Sixth Amendment to the United States Constitution, or facing loss of liberty and Guam law, the United States Constitution, or the applicable provisions of the Organic Act, require the appointment of counsel.

(b) **Discretionary.** The court may appoint counsel for a person who is financially unable to obtain representation who is:

- (1) charged with civil or criminal contempt and facing loss of liberty;
- (2) seeking collateral relief from a judgment in a criminal matter; or,
- (3) a person whose rights under the United States Constitution (or the Organic Act) may be substantially infringed without the appointment of counsel.

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002).

MR 1.1.2. Determination of Need.

(a) **Determination.** Before the appointment of counsel under these Rules, the court shall inquire into, and make a finding, as to whether the person is financially able to obtain adequate representation. The court shall inquire as to the information requested in the Financial Declaration (a copy of which is attached hereto as Appendix A). All statements by the person in such inquiry shall be under penalty of perjury. All persons seeking counsel under these Rules shall submit the Financial Declaration to the

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court. The court may appoint counsel subject to the submission of the Financial Declaration. The court shall not appoint counsel unless a Financial Declaration is submitted.

(b) Need. The court shall determine the person's ability to obtain adequate representation according to the financial guidelines then in effect established by the Public Defender Service Corporation.

(c) Redetermination.

(1) If, at any stage of the proceedings, the court determines pursuant to these Rules, that a party, who previously had not had counsel appointed, has become financially unable to obtain adequate representation, the court may then appoint counsel for that person.

(2) If at any time after appointment under these Rules, counsel obtains information that the person is now financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of such information is not protected as a privileged communication, counsel shall so advise the court.

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002).

NOTE: The Financial Declaration is also available on the Supreme Court's website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>

MR 1.1.3. MANNER OF APPOINTMENT.

(a) Priority. The Chief Justice and each Judge of the Superior Court shall appoint counsel in the order set forth below:

- (1) The Public Defender Service Corporation;
- (2) The Alternate Public Defender Office;
- (3) The Private Attorney Panel; and
- (4) Active members of the Guam Bar Association.

The Chief Justice or a Judge of the Superior Court may, appoint counsel in derogation of the order set forth above for good cause shown, such good cause to be entered on the record. The Chief Justice 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 Chief Justice 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) 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 PAP attorneys approved at the time of this promulgation are identified in Appendix B (see PAP List on the Supreme Court's website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>). 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.

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(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, and the Chairperson of the Judiciary's Subcommittee on Indigent Defense shall be 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 Clerk's 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 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 (Appendix C).

NOTE: The Private Attorney Panel Application is also available on the Supreme Court's website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>

(D) The Standing Committee shall review each application, and determine whether the applicant possesses the qualifications required for the PAP, and if so, approve the application. If the applicant does not possess the necessary qualifications, the Standing Committee shall place the applicant on a pending applications list, which will include those attorneys requiring more training prior to being placed on the regular PAP list.

(E) Each approved application shall be distributed to all Justices and Judges, who shall have 14 days to review and comment on the application. Those reviewing the application shall

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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:

- (i) a perceived lack of competence or knowledge;
 - (ii) a perceived lack of interest and motivation;
 - (iii) a perceived lack of training;
 - (iv) an unwillingness to make the necessary commitment to the PAP; or
 - (v) 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.

(F) After the 14 day review period, whether or not comments or recommendations are received, each application shall be transmitted to the Chief Justice who shall review each application, comments and recommendations and approve or disapprove the application.

(G) The final PAP shall consist of approximately 10 - 15 members in each of the following five (5) categories:

- (i) Criminal Felony;
- (ii) Criminal Misdemeanor;
- (iii) Juvenile;
- (iv) Guardian Ad Litem; and
- (v) Appellate.

(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, but not limited to, bail hearings, sentencing proceedings, and appellate arguments.

(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 to the Supreme Court Justices or Superior Court Judges, whichever is applicable, 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

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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 Justices or Superior Court Judges, whichever is applicable, for inclusion on the PAP. Final decisions on inclusion will be made by the Chief Justice.

(B) Suspensions.

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.

2013 NOTE: Subsection designation was removed to adhere to the Compiler's general codification scheme pursuant to the authority granted by 1 GCA § 1606.

(C) Removals.

(1) 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 Chief Justice 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.

(2) 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 Chief Justice for appropriate action. Removal of the attorney from the PAP shall be by the Chief Justice.

(D) Resignations.

(1) Any member of the PAP who desires to voluntarily resign from the PAP, shall submit a written request to the Chief Justice setting forth reasons and justification for such resignation. The Chief Justice shall determine whether the resignation will have a detrimental effect on the ability of the court to appoint counsel before allowing the member to resign.

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(2) Any member of the PAP who is subject to suspension or removal from the PAP pursuant to this rule shall not be permitted to request resignation from the PAP until the suspension or removal issue is decided.

(4) Assignment of Cases to the Private Attorney Panel.

(A) The Chief Justice 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 for good cause 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 Chief Justice 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. Upon an appointment, the PAP attorney shall immediately determine if a conflict of interest exists preventing representation and inform the court. No payment shall be made by the court for the determination of a conflict. PAP attorneys shall not charge the court for determining whether a conflict exists.

(B) The respective Clerk’s Offices of the Supreme Court and Superior Court and each respective courtroom clerk of the Superior Court shall maintain a master computer generated 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 Chief Justice of the Supreme Court or a Judge of the Superior Court determines that a PAP attorney has repeatedly passed assignments, the Chief Justice 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 Chief Justice of the Supreme Court or a Judge of the Superior Court and make such further inquiry or recommendation to the Chief Justice as it deems appropriate, including removal from the PAP.

(D) Each of the respective Clerk’s Offices of the Supreme Court and the Superior Court shall also maintain a public record of assignments to the Public Defender Service Corporation of Guam, Alternate Public Defender, the PAP, and active members of the Guam Bar Association 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 the Chief Justice or Judge for good cause 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.

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(c) Records.

(1) The Clerk of the Supreme Court and Clerk of the Superior Court shall each maintain:

(A) a master computer generated list of all attorneys on the Panel;

(B) a master computer generated list for the public record of all appointments, including the numbers and types of cases as assigned to the various law firms and attorneys described in MR 1.1.3(a) and (b) above; and,

(C) current data on the status of invoices and payment for all court appointments.

(2) The Public Defender and the Alternate Public Defender shall prepare monthly reports on court appointments and submit such reports to the Administrator of the Courts.

(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. With respect to appointed counsel who is a partner, shareholder or member of a law firm, an attorney affiliated with such law firm may participate and appear without leave of the court on behalf of such appointed counsel in any proceeding in this court, provided, however, that appointed counsel shall exercise actual supervisory control and authority over the performance of such appearing attorney, and remain responsible and accountable for the conduct of the case. Notwithstanding the foregoing, a judge may in his or her discretion require the appointed counsel to personally appear at a particular hearing should the judge deem that the circumstances of the case require appointed counsel's appearance.

In all criminal cases, trial counsel shall advise the defendant of the right to appeal and of the right to counsel on appeal. If requested to do so by the defendant in a criminal case, trial counsel shall file a timely Notice of Appeal in the Superior Court of Guam, and shall simultaneously file a motion for the appointment of appellate counsel with the Supreme Court of Guam. A copy of the Notice of Appeal should be attached to the motion for appointment of appellate counsel. Such motion shall indicate whether

(1) trial counsel is a member of the appellate panel, and

(2) whether trial counsel wishes to remain as appellate counsel.

Upon the filing of such motion, the Supreme Court shall issue an order appointing appellate counsel for all appellate proceedings from the list of attorneys on the approved appellate panel. There is therefore no requirement that trial counsel be automatically appointed as appellate counsel, should an appeal be taken. Upon appointment, appellate counsel shall represent the defendant, until the matter, including appeals or review by certiorari, is closed; until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed pro se; until the appointment is terminated by court order; or until the attorney is relieved by the court.

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002), amended by PRM04-003 (Feb. 27, 2004), repealed and reenacted by PRM05-004 (May 3, 2005). Rules 13.3 (C)(2), (3) & (4) and Rules 13.3 (D) and (E), amended and renumbered, respectively, by PRM04-004 (Mar. 9, 2004). MR 1.1.3. (A)(2), (B)(1)(a-b), (B)(2)(d-f), (B)(3)(a)(ii), (B)(3)(c), (B)(4)(d), (C)(2), and (B)(3)(d), amended and added, respectively, by PRM06-006-03 (Oct. 2, 2007). MR 1.1.3(B)(1)(d) amended by PRM06-006-06 (July 16, 2008). MR1.1.3(D) amended by PRM06-006-07 (July 28, 2009), PRM06-006-08 (Feb. 15, 2010). MR1.1.3(2)(g) amended by PRM 06-006-13 (Apr. 2, 2012).

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MR 1.1.4. INVESTIGATIVE, EXPERT, INTERPRETATIVE AND PARALEGAL SERVICES.

(a) The court may authorize counsel appointed under these Rules to retain the services of investigators, experts and interpreters upon a showing that such services are necessary for adequate representation of the person. The hourly rate for investigators, experts and interpreters shall not be less than \$25.00.

(b) Prior to retaining the services of investigators, experts or interpreters, counsel appointed under these Rules shall submit an application for approval of such services by the court. Failure to obtain approval prior to retaining such services may bar payment or reimbursement from the court for same, absent a finding by the court of sufficiently compelling circumstances.

(c) Where counsel has received prior authorization for investigators, experts and interpreters, the maximum total shall not exceed \$1,500.00. Counsel appointed under these rules may apply to the Administrator of the Courts to exceed this maximum. Counsel must demonstrate extraordinary circumstances and good cause to justify an exception to the maximum. Approval of any amount in excess of the limit herein shall be approved by the Administrator of the Courts. The Superior Court Judge presiding over the case may provide input in this regard.

(d) An investigator shall not be paid for time in court unless called as a witness in the case.

(e) The total cost of all services obtained without prior authorization may not exceed a total of \$250.00 and expenses reasonably incurred.

(f) An attorney appointed under these rules may, in her discretion, use the services of a paralegal. A paralegal hired under these rules shall not be paid more than \$45.00 per hour and such services shall not be separately charged to the court.

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002).

MR 1.1.5. 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. However, in any case where the defendant faces life imprisonment, such as a homicide or criminal sexual conduct case, the maximum shall not be more than \$15,000.00.

(2) Not more than \$2,500.00 shall be paid for misdemeanors.

(3) Not more than \$2,500.00 shall be paid for juvenile delinquency cases.

(4) Not more than \$7,500.00 shall be paid for each level of appeal in a particular case.

(5) Not more than \$1,000.00 shall be paid for work performed in any given year for a period of up to five (5) years for attorneys appointed in juvenile special proceedings cases or appointed to provide guardian ad litem services. Notwithstanding the maximum compensation herein, the services of the appointed attorney may continue beyond the five (5) year period.

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

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the Administrator of the Courts. The Superior Court Judge presiding over the case may provide input in this regard.

(b) No counsel appointed under these Rules may request or accept any payment, or promise of payment, for such representation unless such payment is approved by order of the court.

(c) Application for payment by appointed counsel shall be submitted on the appropriate voucher form to the Clerks of the Superior Court and Supreme Court, whichever is applicable. Appointed counsel shall submit vouchers on a monthly basis. The Clerks for each court shall not approve payments unless vouchers are submitted as herein provided. 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.

(d) Court Interpreter Compensation.

(1) REGISTERED BLOCK PAY – Non-Trial Hearings:

(A) \$60.00 a HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block includes any fraction of a half day block.

(B) \$90.00 a FULL DAY BLOCK - Morning Block plus same day Afternoon Block.

(C) \$16.00 an hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(2) REGISTERED BLOCK PAY – Trial

(A) \$80.00 a HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block includes any fraction of a half day block.

(B) \$110.00 a FULL DAY BLOCK - Morning Block plus same day Afternoon Block.

(C) \$20.00 an hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(3) REGISTERED BLOCK PAY – Non Courtroom Matters (office appointments/ visits to the Department of Corrections)

(A) \$24.00 an hour, including any fraction of the hour.

(4) UNREGISTERED Non-Block PAY - All matters.

(A) \$16.00 Per Hour, including any fraction of an hour, not to exceed \$60.00 per day, including after 5:00 p.m. Unregistered interpreters may be compensated for waiting time in addition to actual interpreting time. Calculations should be made to the nearest $\frac{1}{4}$ fraction of the hour.”

(5) APPEARANCE FEE. The following compensation shall apply to a courtroom hearing, or non-courtroom matter/appointment that is cancelled due to no fault of the interpreter, and the interpreter appeared in conformity with his/her scheduled assignment.

(A) Courtroom Appearance Fee - \$30.00

(B) Appointment Appearance Fee - \$12.00

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002). Rule 13.5(A) and (C) repealed

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and reenacted by PRM04-003 (Feb. 27, 2004). Rule 13.5(A) and (C) amended by PRM05-004. MR 1.1.5(a)(5) added by Promulgation Order No. 06-006-03 (Oct. 2, 2007). MR 1.1.5(a)(1) amended by PRM06-006-06 (July 16, 2008). MR 1.1.5(a)(4) amended by PRM06-006-07 (July 28, 2009). MR 1.1.5(d) adopted pursuant to PRM13-001-01 (Mar. 6, 2013), amended by PRM13-001-03 (July 1, 2013).

APPENDIX OF FORMS

Miscellaneous Rule 1.1

- A. **Financial Declaration**
(available on the Supreme Court's website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>)
- B. **Private Attorney Panel**
(see PAP List on the Supreme Court's website at <http://www.guamsupremecourt.com/supreme.html>)
- C. **Private Attorney Panel Application**
(available on the Supreme Court's website at <http://www.guamsupremecourt.com/IndigentDefense/IndigentDef.html>)

APPENDIX "A"
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

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

 Felony Misdemeanor

1 <input type="checkbox"/> Defendant - Adult	4 <input type="checkbox"/> Provation Violator
2 <input type="checkbox"/> Defendant - Juvenile	5 <input type="checkbox"/> Habeas Petitioner
3 <input type="checkbox"/> Appellant (if so, was counsel previously appointed for you <input type="checkbox"/> Yes <input type="checkbox"/> No	6 <input type="checkbox"/> Other (specify)

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

Are you now employed? Yes No Self Employed. Name and address of employer:
IF YES, how much do you earn per month?
EMPLOYMENT **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? \$

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

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

Are you currently receiving welfare benefits of any kind? Yes No **IF YES**, give the amount per month and describe the benefit.

	AMOUNT	TYPE OF 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 Total No. of List persons you actually support and your relationship to them.

<input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Separated or Divorced	Dependents: ()	_____ _____ _____
---	-----------------------	-------------------------

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

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 Gam 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): _____

<p>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.</p>
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**LOCAL RULES OF THE
SUPERIOR COURT OF GUAM**

APPENDIX "B"

PRIVATE ATTORNEY PANEL

(see current PAP List on the Supreme Court's website at
<http://www.guamcourts.org/IndigentDefense/IndigentDef.html>)

FELONIES AND MISDEMEANOR CASES

Joaquin C. Arriola, Jr.
Anthony R. Camacho
Jaime L. Canto II
F. Randall Cunliffe
Thomas J. Fisher
Mylene N.R. Lopez
Rawlen M.T. Mantanona
Douglas B. Moylan

Jonathan R. Quan
Naoko G. Shimizu
Mark S. Smith
Sylvia L.G. Stake
Samuel Teker
John C. Terlaje
Mark E. William
Louie J. Yanza

JUVENILES (JDS AND JSP AND OTHER SP'S)

George M. Butler
Anthony R. Camacho
Jaime L. Canto II
Cynthia V. Ecube
Thomas J. Fisher
Guam Legal Services Corporation (GLSC)
Douglas G. Moylan
Harold F. Parker

Ross E. Putnum
Naoko G. Shimizu
Daniel Somerfleck
Carol A. Telford Butler
John C. Terlaje
Mark E. Williams
Patrick M. Wolff

GUARDIAN AD LITEM (Juvenile Cases Only)

George M. Butler
Jaime L. Canto II
Cynthia V. Ecube
Guam Legal Services Corporation (GLSC)
Harold F. Parker

Naoko G. Shimizu
Daniel Somerfleck
Patrick M. Wolff
Carol A. Telford Butler

APPELLATE CASES

Ladd A. Baumann
Anthony R. Camacho
Maria B. Cenzon-Duenas
Thomas J. Fisher

Vincent Leon Guerrero
Peter C. Perez
Mark E. Williams

LOCAL RULES OF THE
SUPERIOR COURT OF GUAM

APPENDIX "C"

PRIVATE ATTORNEY PANEL APPLICATION

Name: _____

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)

QUESTIONS RELATING TO CRIMINAL COURT, JUVENILE AND GUARDIAN AD LITEM EXPERIENCE:

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)

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.

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

Please explain any other relevant experience which explains why you would like to be on the PAP.

QUESTIONS RELATING TO APPELLATE EXPERIENCE:

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, Ninth 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, Ninth 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 the Clerk of the Supreme Court.

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

MR 1.2. Post Judgment Appearance and Violations.

(a) When an indigent defendant has been placed on probation as provided for in 9 GCA § 80.64, and a judgment of conviction, or an order on deferred plea has been docketed by the Clerk of Court, or defendant is released pursuant to a suspended sentence, right to indigent counsel and representation shall automatically terminate on entry of the judgment (including the amount of restitution, if any), and counsel shall not be required to appear at post judgment hearings, unless a summons or warrant is noticed as provided for herein.

(b) During the period of defendant's probation, if the Probation Division of the Superior Court determines that it appears a defendant has violated a condition of his probation, release or suspended sentence, the Violation Report, including a Declaration of the probation officer describing the nature of the alleged violation, and the facts in support of the probable cause determination of the alleged violation, shall be filed with the Court. Probation may submit a proposed warrant directly to the Court with the Report and Declaration in extreme circumstances. A copy of the Violation Report, together with a proposed unsigned Summons on Violation, shall be served on the Attorney General's Office Prosecution Division.

(c) The Prosecution Division of the Attorney General's Office will decide on the basis of the filed report whether there are grounds to proceed to revoke conditions of probation or release, and/or recommend immediate imposition of defendant's suspended sentence. If the Attorney General declines to act on the Report of Violation, no hearing will be set unless otherwise ordered by the court under 9 GCA § 80.66(a)(1).

(d) If the Attorney General elects to proceed on the Report of Violation, the Attorney General shall submit the Summons on Violation to the court indicating that the Attorney General wishes to proceed with a violation hearing. On the submission of the unsigned Summons on Violation, the Court shall set the matter for a violation hearing pursuant to 9 GCA § 80.66 for the appearance of the defendant at hearing. The filing of the Summons or Warrant tolls the period of probation (9 GCA § 80.66). Copies of the Summons or Warrant shall be served on prior counsel of record.

(e) If counsel for an indigent defendant has been relieved as counsel pursuant to the provisions of Rule 1.2(A), then if the court issues a summons or warrant, indigent counsel shall be re-appointed to represent the defendant for purposes of assistance at the violation hearing. Appointment shall cease upon resolution of the violation unless otherwise ordered.

SOURCE: Adopted pursuant to Promulgation Order No. PRM06-006-09, Mar. 19, 2010.

MR 1.3. Calendaring by Judges.

Superior Court Judges are encouraged to arrange their criminal calendars with the following principle in mind: Judges are asked to designate particular days on which different criminal proceedings will be called. For example, arraignments, trial settings, guilty pleas, violation hearings, and discovery motions can all be scheduled for different days.

SOURCE: Adopted pursuant to Promulgation Order No. PRM06-006-09, Mar. 19, 2010.

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

MR 1.4. Collection Court – Pilot Program

In an effort to minimize the time and judicial resources dedicated to post-judgment fine and restitution issues in criminal cases, the following Post-Judgment Collection Court Procedure pursuant to 9 GCA § 80.56 shall be implemented for one year as a pilot program:

(a) Opening of Collection Court Case. Pursuant to 9 GCA § 80.56(c), when a criminal defendant's probation expires, the unpaid balance of any fine or restitution shall give rise to a related criminal-collections case to be opened by the Clerk of Court. A case removing unpaid fines or restitution from the underlying criminal case to an ancillary criminal-collections case shall be given a new enumeration by the Clerk of Court in the manner of: "RS 0__-____." This will indicate that it is a criminal case with unresolved fine or restitution issues that has been converted to an uncollected criminal-collections case. The Clerk of Court is authorized to open this new ancillary case without filing fees. The Clerk of Court shall open such case at any time that he is notified either by the Judge or by a representative of the Probation Services Division that a fine or restitution remains unpaid and the case is within 90 days of expiration of probation. Such notification shall be provided in the form attached to this Rule as "Form 1: Notification of Conversion of case to Collection Court Docket under 9 GCA § 80.56." Within 90 days of receipt of "Notification of Conversion to Collection Court" and before the expiration of defendant's probation, the judge shall direct defendant to attend Criminal-Collection Court in an order which the defendant is ordered to pay a certain dollar amount toward the total fines, restitution or costs each month. The due date shall be set for the first of each month. The Criminal-Collection-Court Order will include a list of court dates the defendant must appear for if the defendant's payments become delinquent. The Order shall also contain guidelines within to which the defendant must adhere. The defendant must read and acknowledge receipt of the Order in writing before leaving the courtroom. The Order may be in the form of a Stipulated Order and Judgment.

(b) Assignment to Magistrate Judge and Representation of Parties. All cases opened under this new docket known as the "RS Docket" shall be assigned to the Superior Court of Guam Magistrate pursuant to 7 GCA § 4401(c)(4), authorizing a Superior Court Magistrate to hear "post judgment civil matters relating to the execution of judgment . . .". Cases in the "RS Docket" shall be calendared by the Clerk of Court on the calendar of the Magistrate Judge, who may schedule them at any time deemed suitable by the Magistrate or his staff.

(c) Procedure of Collection Court.

(1) If a defendant is delinquent, the defendant must appear for court to explain to the Magistrate why he or she is unable to make the payments in a timely manner. The Assistant Attorney General may discuss the case with the defendant, and try to work out a better plan. The Magistrate may consider options to avoid the defendant's further delinquency but nonetheless shall order the defendant to meet his or her obligation.

(2) If the defendant does not appear in court, the Magistrate will either reset to the next Collection Court date or issue a summons or a recommendation for a warrant of arrest under Administrative Rule 10-001 and assess court costs or fees accordingly. When a warrant of arrest is issued, the court shall set cash bail in an amount equal to the balance due or \$250.00, whichever is less.

**LOCAL RULES OF THE
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SOURCE: Adopted pursuant to Promulgation Order No. PRM06-006-09, Mar. 19, 2010.

APPENDIX OF FORMS

Miscellaneous Rule 1.4

- A. Notice of Conversion of Case to Collection Court Docket under 9 GCA § 80.56.
- B. Collection Order.

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MR 1.4 Appendix A

NOTICE OF CONVERSION OF CASE TO COLLECTION
COURT DOCKET under 9 GCA § 80.56

To: Clerk of the Superior Court of Guam

Re: Referral of Criminal Fine/Restitution to Collection Court Docket

Date: [To be submitted within 90 days prior to expiration of probation]

YOU ARE HEREBY NOTIFIED pursuant to Miscellaneous Rule 1.4(A) of the Local Rules of the Superior Court of Guam, that the above referenced criminal case

1. Has outstanding fines unpaid in the amount of \$_____.
2. Has outstanding restitution unpaid in the amount of \$_____.
3. All other conditions of release or probation have been satisfied or are no longer at issue. Counsel for indigent defendant has been relieved of his/her appointment as counsel.
4. The term of probation will expire on the ____ day of _____, 20__.

YOU ARE THEREFORE DIRECTED to transfer this case to an ancillary criminal collections case with a new caption which shall be “RS 0__ - _____,” indicating that it is a criminal case with an unresolved fine or restitution issue.

Submitted this ____ day of _____, 20__.

() _____
() Probation Officer (or)
JUDGE OF THE SUPERIOR COURT

LOCAL RULES OF THE
SUPERIOR COURT OF GUAM

MR 1.4 Appendix B

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM)	RS-0__ - _____
)	
Plaintiff,)	(Criminal Case No. CF/CM _____)
)	
vs.)	
)	COLLECTION ORDER
)	
Respondent,)	
_____)	

Pursuant to Miscellaneous Rule 1.4(a) of the Local Rules of the Superior Court of Guam, the Court hereby ORDERS the Defendant the following:

1. Defendant _____ in the above-captioned case is hereby ordered to pay the amount of \$_____ per month to the Financial Management Division of the Superior Court. Payments are due on the first day of every month.
2. Such payments will be applied to his/her outstanding () fine () restitution in the above referenced criminal case.
3. If this Defendant does not make this payment by the first of each month as ordered, s/he is ordered to appear before the Honorable Alberto E. Tolentino, Magistrate Judge of the Superior Court of Guam on the _____ day of _____, at __:___ o'clock __.m. and on the same day of the month of every month thereafter, until payments are brought current or the terms of this Collection Order are modified.

THE DEFENDANT, BY SIGNING HIS/HER NAME BELOW, ACKNOWLEDGES THAT S/HE HAS READ THIS ORDER AND UNDERSTANDS IT. IF DEFENDANT HAS QUESTIONS ABOUT THIS ORDER, THE DEFENDANT WILL CALL: _____

Defendant's name (printed): _____

Defendant's signature: _____

SO ORDERED this _____ day of _____, 20__.

Judge/Magistrate Judge
Superior Court of Guam

FAMILY VIOLENCE ORDERS OF PROTECTION

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

MR 2.1. Family Violence Orders of Protection.²

AUTHORITY: These rules shall govern the Order of Protection process in the Superior Court, for all persons as defined under 9 GCA § 30.10(b), and 7 GCA § 40101(d), who seek an order of the Court for exigent and immediate relief from abuse or the threat of abuse by a family or household member.

MR 2.1.1. Jurisdiction.

Limitation of Process. The following Rules shall apply to the Order of Protection process for all persons as defined under 9 GCA § 30.10(b), and 7 GCA § 40101(d), who seek an order of the Superior Court for exigent and immediate relief from abuse or the threat of abuse by a family or household member. This process does not apply to protection cases filed by the government in cases designated Persons In Need of Services; Beyond Control; and Adult Protection.

COMPILER NOTE: Promulgation Order No. 06-003 mistakenly identified 7 GCA § 40105(d), which does not exist. The correct section is 7 GCA § 40101(d), which defines family or household members. This manifest error was corrected in this section and in the “AUTHORITY” paragraph above by the Compiler of Laws.

2013 NOTE: Subsection designation was removed to adhere to the Compiler’s general codification scheme pursuant to the authority granted by 1 GCA § 1606.

MR 2.1.2. Petition.

(a) Petition for Order of Protection.

(1) A Petition for an Order of Protection shall be filed with the Clerk of Court at the Courts and Ministerial Division of the Superior Court of Guam.

(2) The new designation for a Petition of an Order of Protection shall be “Protective Order - PO Case #00-0000.” Plaintiff shall be the “Petitioner.” Defendant shall be the “Respondent.”

(3) All petitions must be made under oath, and contain detailed facts and information to assist the Court in making a determination of the basis for the petition.

(b) Separate Actions. Petitions for an Order of Protection may be filed separately, filed concurrently with another case, or subsequent to another existing case. All cases involving the same parties shall be automatically consolidated by the Clerk of Court for assignment.

(c) Costs. Petitions for an Order of Protection shall be filed without cost. This fee exemption applies only to these Petitions for Orders of Protection. The fee exemption is not available for any concurrent or subsequent filing of a related domestic, child custody, or child support action. Fees must be paid for related domestic, child custody, or child support actions, even if filed at the same time as the Petition for Order of Protection.

SOURCE: 19 GCA § 14104.

(d) Clerk Office Open. The Clerk’s Office shall be open and available to assist any person seeking an Order of Protection Monday through Friday at the hours of 11:00 a.m., and 4:00 p.m. If the Court is not open for regular business hours, or on the weekend, a petition may be heard by the magistrate judge, or any judge available on duty.

MR 2.1.3. Hearings and Notice.

² **SOURCE:** Rule 14 adopted by Sup. Ct. of Guam Prom. Order No. 06-003 (Mar. 31, 2006). Renumbered by Compiler to follow section number designations for the Rules of the Superior Court of Guam. Promulgation Order No. 06-006-04 (Jan. 11, 2008) adopted forms to be used with these Rules, effective immediately.

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(a) Ex Parte Application for Temporary Order of Protection.

(1) An *ex parte* application for an Order of Protection shall be heard each day pursuant to these Rules. A Rule CVR 7.1.1 declaration of notice is required only in cases where Respondent is represented by counsel. Notice is not required to be served on a pro se Respondent if such notice would further endanger the safety and welfare of the Petitioner and/or minor child/ren. The Clerk of Court will transmit the petition for immediate review and hearing at such times designated by the Ex Parte judge, or any available judge should the Ex Parte judge not be available.

(2) An *ex parte* application for an Order of Protection and a request for a Show Cause hearing shall be filed together with a Petition and Affidavit for Temporary Order of Protection subscribed under oath by the Petitioner.

(3) The Judge after review of the Petition and Affidavit may require the Petitioner to respond to any questions from the Court at the Ex Parte hearing. If the Petitioner is not present at the Ex Parte hearing and is instead represented by an attorney, the Court may accept the Affidavit of the Petitioner as establishing grounds for issuance of the Temporary Order of Protection.

SOURCE: 19 GCA § 14101.

(4) Upon grant of the Temporary Order of Protection, the Clerk of Court shall set the matter for a Show Cause Hearing no later than ten (10) days calendar from date of the issuance of the Temporary Order of Protection by the judge.

SOURCES: 7 GCA § 40105(b) and § 20301.

(b) Final Orders of Protection/Show Cause Hearing.

(1) All Petitions for an Order of Protection shall be heard by the Family Violence Court judge. If the parties have a pending domestic case assigned to a Family Court judge, the Show Cause hearing should be scheduled before the Family Court judge.

(2) All Show Cause hearings shall be heard no later than ten (10) days calendar after issuance of the Temporary Order of Protection, and shall be calendared before the Family Violence Court judge at such times as designated by the Court.

(3) The Respondent shall be ordered to appear before the Court at the times and dates specified in the Temporary Order of Protection. Failure to appear may subject the Respondent to contempt charges. If the Respondent fails to appear at the hearing after being properly served and noticed, the case may proceed by default.

(4) The Court shall inform the Respondent of his right to seek assistance of an attorney at his own expense. If the Respondent desires to obtain assistance of an attorney, the Court may continue the Show Cause hearing for a reasonable period to afford the Respondent an opportunity to obtain counsel. A Temporary Order of Protection may be modified, may continue as a temporary order, or may be made permanent as deemed appropriate by the Court.

**LOCAL RULES OF THE
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(5) After taking testimony and evidence at the Show Cause hearing, and upon a showing of proof by a preponderance of the evidence as to the truth of the allegations in the Petition, the Judge may issue an Order of Protection for such periods as authorized by law, or may approve any consent agreement to bring about cessation of abuse of the plaintiff or minor child/ren. Upon motion of the Petitioner and in the sound discretion of the Family Violence Court judge, the Order for Protection pursuant to Title 7GCA § 40105(b) may be extended for additional periods of one (1) year.

(6) Mutual restraining orders, either stipulated to by the parties or issued by the court, are prohibited unless:

(A) based on a cross or counter petition or complaint, or

(B) the court has made specific findings that each party was entitled to such an order, including detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither acted primarily in self-defense.

SOURCE: 18 U.S.C. § 2265(c).

MR 2.1.4. Relief.

(a) Temporary Order of Protection. A court may grant the following temporary relief at the ex parte hearing:

(1) Enjoining and restraining the Respondent from harassing, abusing, threatening, using or attempting to use physical force or cause bodily injury to the Petitioner and the minor child/ren, or communicating directly or indirectly with the Petitioner or the minor(s);

(2) Enjoining the Respondent from coming within five hundred (500) feet of the Petitioner, Petitioner's residence, place of employment, school, or the minor child/ren until otherwise permitted by the Court;

(3) Restraining the Respondent from interfering with the Petitioner's temporary custody of the minor child/ren, or removing them from Guam;

(4) Granting exclusive possession of the family residence to the Petitioner by evicting the Respondent or restoring possession to the Petitioner when the residence or household is jointly owned or leased by the parties;

(5) Granting the Petitioner use of a vehicle or other personal possession, or ordering payment of certain costs, fees, rent or mortgage payments, child support, medical and dental costs, court costs, or attorneys fees;

(6) Awarding temporary custody, providing for or prohibiting visitation with the child/ren;

(7) Ordering the temporary or permanent surrender of any kind of weapon, or instrument that could inflict harm or injury in the possession of the Respondent.

SOURCES: 7 GCA § 40105; and 19 GCA § 8404.

(b) Order of Protection. A court may grant the following permanent relief:

(1) Enjoining and restraining the Respondent from harassing, abusing, threatening, using or attempting to use physical force or cause bodily injury to the Petitioner and the minor child/ren, or communicating directly or indirectly with the Petitioner or the minor(s);

**LOCAL RULES OF THE
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(2) Enjoining the Respondent from coming within five hundred (500) feet of the Petitioner, Petitioner's residence, place of employment, school, or the minor child/ren until otherwise permitted by the Court;

(3) Restraining the Respondent from interfering with the Petitioner's custody of the minor child/ren, or removing them from Guam;

(4) Granting exclusive possession of the family residence to the Petitioner by evicting the Respondent or restoring possession to the Petitioner when the residence or household is jointly owned or leased by the parties;

(5) Granting the Petitioner use of a vehicle or other personal possession, or ordering payment of certain costs, fees, rent or mortgage payments, child support, medical and dental costs, court costs, or attorneys fees;

(6) Awarding permanent custody, providing for or prohibiting visitation with the child/ren;

(7) Ordering the temporary or permanent surrender of any kind of weapon, or instrument that could inflict harm or injury in the possession of the Respondent.

SOURCES: 7 GCA § 40105; 19 GCA § 8404, and 9 GCA § 30.32.

MR 2.1.5. Service of Orders.

Service of Orders of Protection and Show Cause Orders. The Marshals Division of the Superior Court of Guam will serve all Orders of Protection and Show Cause Orders upon order of the Court, or at the request of the Petitioner. The Petitioner or his/her attorney should provide complete and detailed information on the whereabouts of the Respondent(s). If the Respondent is incarcerated the Petitioner should notify the Marshal of the date of arrest.

2013 NOTE: Subsection designation was removed to adhere to the Compiler's general codification scheme pursuant to the authority granted by 1 GCA § 1606.

MR 2.1.6. Standard of Review.

(a) Burden of Proof.

(1) The burden of proof is upon the Petitioner who seeks an Order of Protection to prove by a preponderance of the evidence the truth of the allegations stated in the petition.

SOURCE: 7 GCA § 40104(a).

(2) Immediate and present danger to the Petitioner or minor child/ren shall constitute good cause for the issuance of an Order of Protection.

SOURCE: 7 GCA § 40104(b).

(3) The Rules of Evidence do not apply to ex parte hearings for Temporary Orders of Protection. The Rules of Evidence are applicable to any final hearing on the merits in a petition for protection from abuse.

SOURCE: 7 GCA § 40104(a).

(b) Additional Evidence Required on Ex Parte Application.

(1) A party seeking removal of another party from the family residence under MR 2.1.4 (a)(4) on ex parte petition must provide, to the satisfaction of the court, proof of ownership of the family residence or leasehold.

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SOURCE: 7 GCA § 40105.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of the Local Rules of the Superior Court of Guam.

(2) A party seeking temporary custody of minor children of the parties under MR 2.1.4.(a)(6) on ex parte petition must provide proof, by a preponderance of the evidence, of immediate and present danger of abuse to the minor children.

SOURCE: 7 GCA § 40104(b).

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of the Local Rules of the Superior Court of Guam.

MR 2.1.7. Contempt.

(a) Civil Contempt.

(1) Upon violation of a protective order, or a court-approved consent agreement of the parties, the Court may hold the Respondent in contempt, as follows:

(A) If the judge certifies that he or she saw or heard conduct constituting contempt and it was committed in the actual presence of the court, and any person found guilty of such contempt may be punished summarily by a fine not exceeding \$25.00 or by imprisonment not exceeding five days or by both. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(B) Other than as provided by subsection (A), contempt shall be prosecuted on notice and a hearing. Any person found guilty of contempt, other than as provided by subsection (A), may be subject to the same penalty as a person found guilty of a petty misdemeanor, which is, a definite term set by the court not to exceed sixty (60) days imprisonment.

SOURCES: 7 GCA §§ 40109, 34101(a) and (b); 9 GCA § 80.34.

MR 2.1.8. Firearms.

(a) Surrender of Firearms and/or Ammunition.

(1) The Court shall require a Respondent subject to an Order of Protection to immediately surrender all firearms and/or ammunition to the Marshal of the Court, or other law enforcement officers.

(2) The Court may issue to the Marshal such search warrants as are necessary to effect the federal statute, the Gun Control Act of 1996, 18 U.S.C. § 922(g)(9). The Court may find probable cause determination based on the allegations contained in the Petition and Affidavit of the Petitioner, or evidence presented at hearing.

(3) Any firearms and/or ammunition seized by the Marshals shall comply with Standard Operating Procedures of the Judiciary of Guam Marshal Division for the seizure, storage and return of all firearms and/or ammunition seized in all protection from abuse cases. Any firearm seized by any other law enforcement officer shall comply with that department's standard operating procedure for the seizure, storage and return of all firearms and/or ammunition seized.

SOURCE: 18 U.S.C. § 922(g)(8), (9).

**LOCAL RULES OF THE
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(b) Federal Firearm Prohibition. An Order for Protection must meet the requirements to satisfy the requirements of a “Qualifying Protection Order” under the federal firearm prohibitions:

- (1) the Respondent must have received notice of the hearing,
- (2) the Respondent must have had an opportunity to participate in the hearing,
- (3) include a finding that the Respondent represents a credible threat to the physical safety of the Petitioner or child; or by its terms, explicitly prohibit the actual, attempted, or threatened use of physical force against the Petitioner or child.

SOURCE: 18 U.S.C. § 922(g)(8).

(c) Release of Firearms and/or Ammunition.

(1) Any firearm and/or ammunition that has been surrendered pursuant to MR 2.1.8(a) shall not be released to a Respondent who is subject to an Order of Protection as set forth in MR 2.1.8(b), until the Respondent obtains a court order granting such release.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of Local Rules of the Superior Court of Guam

(2) The Respondent or other registered owner may request, by motion to the assigned judge, for the release of any firearm and/or ammunition surrendered pursuant to MR 2.1.8(a). Such motion shall be made after the expiration of the Order for Protection.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of the Local Rules of the Superior Court of Guam(3) At the hearing, the judge shall consider the following:

(A) Has the Order for Protection has been extended or made permanent

(B) Is the Respondent is subject to any court order that precludes the ownership or possession of firearms and/or ammunition;

(C) The ownership and registration status of the firearm and/or ammunition;

(D) Any other factor which, in the sound discretion of the court will justify the release or other disposition of the firearm(s) or ammunition, including but not limited to, the grounds for Respondent’s request for release, possible danger for the victim(s), and employment purposes.

(4) No firearm shall be released by any Judiciary marshal pursuant to this rule unless the Respondent complies with the applicable statutes regarding registration, Chapter 60 of Title 10 of the GCA.

(5) The Judiciary shall not be held liable for alleged damage or deterioration due to the storage, transportation of any firearm that was surrendered to a marshal pursuant to MR 2.1.8(a).

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of the Local Rules of the Superior Court of Guam

MR 2.1.9. Enforcement of Orders of Protection.

(a) Orders for Protection. Orders of Protection issued by the courts of Guam shall be certified by the Clerk of the Superior Court of Guam, and shall be accorded full faith and credit in all jurisdictions in the United States, including territories, tribes and commonwealths.

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

(b) Foreign Orders for Protection.

(1) A certified copy of an order for protection or restraining order issued in another state or jurisdiction may be filed with the Clerk of Court of the Superior Court of Guam. The Clerk of Court shall take the same action upon foreign orders as is taken with orders issued by a court of Guam.

SOURCE: 19 GCA § 14105 (a).

(2) Any valid protection order relating to abuse or domestic violence issued in another state, territory, tribe, or commonwealth of the United States, and filed with the Clerk of Court in accordance with subsection (A), shall be afforded full faith and credit by the courts of Guam and enforced as if issued by a court of Guam.

SOURCE: 19 GCA § 14105 (b).

(3) At the request of a court of another state, or of a person who is affected by or has a legitimate interest in a foreign order for protection, the Clerk of Court shall certify and forward a copy of the foreign order to the requesting party at no cost.

SOURCE: 19 GCA § 14105 (c)(2).

MR 2.1.10. Protective Order Registry.

(a) Registry. The Clerk of the Superior Court of Guam shall maintain a registry of all orders for protection and restraining which are:

(1) issued by the courts of Guam. Such order shall be included in the registry within 24 hours after the order is issued.

(2) issued by a court in another state, territory, tribe, or commonwealth of the United States, which has been and filed with the Clerk of Court in accordance with MR 2.1.9(b)(1). Such order shall be included in the registry within 24 hours after a certified copy of the foreign order is filed with the Clerk of Court.

SOURCES: 19 GCA § 14105 (c)(1); 19 GCA § 14106 (a).

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to Rule 14 was altered to reflect its adoption in the Miscellaneous Rules of Local Rules of the Superior Court of Guam

(b) Availability of Information. Upon request, the information contained in the registry shall be available at all times to a court, law enforcement agency, and other governmental agency.

SOURCE: 19 GCA § 14106.

APPENDIX OF FORMS

Miscellaneous Rule 2.1

- A. Order to Show Cause/Temporary Order of Protection
- B. Preliminary Order of Protection
- C. Permanent Order of Protection with Additional Orders
- D. Permanent Order of Protection without Additional Orders

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

EXHIBIT A

IN THE SUPERIOR COURT OF GUAM

ORDER TO SHOW CAUSE TEMPORARY Order of Protection	Case No. <input style="width: 100%;" type="text" value="PO #"/> Court Superior Court of Guam County <input style="width: 100%;" type="text" value="Hagatna"/> State <input style="width: 100%;" type="text" value="GUAM"/>
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PETITIONER	PETITIONER IDENTIFIERS
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
First Middle Last	Date of Birth of Petitioner
And/or on behalf of minor family member(s): (list name and DOB)	Other Protected Persons/DOB: _____

VS.

RESPONDENT	RESPONDENT IDENTIFIERS																														
<input style="width: 100%;" type="text"/>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 15%;">SEX</th> <th style="width: 15%;">RACE</th> <th style="width: 15%;">DOB</th> <th style="width: 15%;">HT</th> <th style="width: 15%;">WT</th> </tr> <tr> <td style="height: 20px;"><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> </tr> <tr> <th>EYES</th> <th>HAIR</th> <th colspan="3">SOCIAL SECURITY #</th> </tr> <tr> <td><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> <td colspan="3"><input style="width: 100%;" type="text"/></td> </tr> <tr> <th colspan="2">DRIVER'S LICENSE #</th> <th>STATE</th> <th colspan="2">EXP</th> </tr> <tr> <td colspan="2"><input style="width: 100%;" type="text"/></td> <td><input style="width: 100%;" type="text"/></td> <td colspan="2"><input style="width: 100%;" type="text"/></td> </tr> </table>	SEX	RACE	DOB	HT	WT	<input style="width: 100%;" type="text"/>	EYES	HAIR	SOCIAL SECURITY #			<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>			DRIVER'S LICENSE #		STATE	EXP		<input style="width: 100%;" type="text"/>		<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>					
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First Middle Last																															
Relationship to Petitioner: _____																															
Respondent's Address																															
CAUTION: <input type="checkbox"/> WEAPON INVOLVED	Distinguishing Features: _____																														

I. THE COURT HEREBY ORDERS:

1. That the Respondent be enjoined and restrained from threatening, abusing, harassing or disturbing the peace and well-being of the Petitioner, Petitioner's minor child/ren, or removing them from Guam;
2. The Respondent is prohibited from coming within 500 / 1,000 feet of the Petitioner, Petitioner's residence and place of employment.
3. Contacting the Petitioner, directly or indirectly, by telephone, letter, e-mail or through third party.
[See reverse for additional orders]

NOTICE TO APPEAR: YOU ARE COMMANDED to appear on _____ at **10:30 A.M.**, in the Superior Court of Guam, to SHOW CAUSE why the above orders should not continue or be made permanent, as well as any other orders the Court deems necessary.

Date: _____ Time: _____ Judge, Superior Court of Guam

NOTICE TO RESPONDENT: VIOLATION OF THIS ORDER MAY SUBJECT THE VIOLATOR/S TO PUNISHMENT UNDER 9 G.C.A. §30.40, A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BY BOTH SUCH FINE OR IMPRISONMENT. FEDERAL LAW PROVIDES PENAL TIES FOR POSSESSING, TRANSPORTING, SHIPPING, OR RECEIVING ANY FIREARM OR AMMUNITION (18 U.S.C. §922 (g)(8) and (9)). THIS ORDER SHALL BE ENFORCED, EVEN WITHOUT REGISTRATION, BY THE COURTS AND LAW ENFORCEMENT OFFICERS OF ANY STATE, THE DISTRICT OF COLUMBIA, ANY U.S. TERRITORY, AND MAY BE ENFORCED BY TRIBAL LANDS (18 U.S.C. §2265). CROSSING STATE, TERRITORIAL, OR TRIBAL BOUNDARIES TO VIOLATE THIS ORDER MAY RESULT IN FEDERAL IMPRISONMENT (18 U.S.C. §2262).

SERVICE: Respondent was served with a copy of this Order on _____ at _____: _____ a.m./p.m.]
EXHIBIT A

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

II. YOU ARE FURTHER ORDERED TO:

- ___ Immediately deliver to the Marshals the following: _____
- ___ Immediately vacate the family residence at: _____.
- ___ Surrender any and all firearms, firearm IDs, and firearm permits, in Respondent's control and/or possession to the Superior Court Marshals.
- ___ Bring your most recent W-2 forms, or a copy of your most recent income tax return and your last paycheck for the purpose of assessing your ability to pay spousal/child support.
- ___ Other: _____

ANY COMMUNICATION INITIATED BY PETITIONER DOES NOT WAIVE OR NULLIFY THIS ORDER. THE GUAM POLICE DEPARTMENT, PORT AUTHORITY POLICE, AIRPORT POLICE and SUPERIOR COURT MARSHALS SHALL ENFORCE THIS ORDER.

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

EXHIBIT B

IN THE SUPERIOR COURT OF GUAM

<p>PRELIMINARY Order of Protection <input type="checkbox"/> Amended</p>	<p>Case No. <input style="width: 100%;" type="text" value="PO #"/></p> <p>Court Superior Court of Guam</p> <p>County <input style="width: 100%;" type="text" value="Hagatna"/> State <input style="width: 100%;" type="text" value="GUAM"/></p>
--	--

<p>PETITIONER</p> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <p style="font-size: small;">First Middle Last</p> <p style="font-size: x-small;">And/or on behalf of minor family member(s): (list name and DOB)</p> <p>_____</p> <p>_____</p>	<p>PETITIONER IDENTIFIERS</p> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <p style="font-size: small;">Date of Birth of Petitioner</p> <p style="font-size: x-small;">Other Protected Persons/DOB:</p> <p>_____</p> <p>_____</p>
--	---

vs.

<p>RESPONDENT</p> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <p style="font-size: small;">First Middle Last</p> <p style="font-size: x-small;">Relationship to Petitioner: _____</p> <p style="font-size: x-small;">Respondent's Address _____</p> <p style="text-align: center;">CAUTION: <input type="checkbox"/> WEAPON INVOLVED</p>	<p>RESPONDENT IDENTIFIERS</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <th style="width: 15%;">SEX</th> <th style="width: 15%;">RACE</th> <th style="width: 15%;">DOB</th> <th style="width: 15%;">HT</th> <th style="width: 15%;">WT</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <th>EYES</th> <th>HAIR</th> <th colspan="3">SOCIAL SECURITY #</th> </tr> <tr> <td> </td> <td> </td> <td colspan="3"> </td> </tr> <tr> <th colspan="2">DRIVER'S LICENSE #</th> <th>STATE</th> <th colspan="2">EXP DATE</th> </tr> <tr> <td colspan="2"> </td> <td> </td> <td colspan="2"> </td> </tr> </table> <p style="font-size: x-small;">Distinguishing Features _____</p>	SEX	RACE	DOB	HT	WT						EYES	HAIR	SOCIAL SECURITY #								DRIVER'S LICENSE #		STATE	EXP DATE						
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DRIVER'S LICENSE #		STATE	EXP DATE																												

THE COURT HEREBY ORDERS:

1. That the Respondent be enjoined and restrained from threatening, abusing, harassing or disturbing the peace and well-being of the Petitioner, Petitioner's minor child/ren, or removing them from Guam;
2. The Respondent is prohibited from coming within 500 / 1,000 feet of the Petitioner, Petitioner's residence and place of employment.
3. Contacting the Petitioner, directly or indirectly, by telephone, letter, e-mail or through third party.
[See reverse for additional orders]

This Order is effective until further order of the Court, or until _____.

Date: _____ Time: _____ Judge Superior Court

NOTICE TO RESPONDENT: VIOLATION OF THIS ORDER MAY SUBJECT THE VIOLATOR/S TO PUNISHMENT UNDER 9 G.C.A. §30.40, A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BY BOTH SUCH FINE OR IMPRISONMENT. FEDERAL LAW PROVIDES PENAL TIES FOR POSSESSING, TRANSPORTING, SHIPPING, OR RECEIVING ANY FIREARM OR AMMUNITION (18 U.S.C. §922 (g)(8) and (9)). THIS ORDER SHALL BE ENFORCED, EVEN WITHOUT REGISTRATION, BY THE COURTS AND LAW ENFORCEMENT OFFICERS OF ANY STATE, THE DISTRICT OF COLUMBIA, ANY U.S. TERRITORY, AND MAY BE ENFORCED BY TRIBAL LANDS (18 U.S.C. §2265). CROSSING STATE, TERRITORIAL, OR TRIBAL BOUNDARIES TO VIOLATE THIS ORDER MAY RESULT IN FEDERAL IMPRISONMENT (18 U.S.C. §2262).

[SERVICE: Respondent was served with a copy of this Order on _____ at _____: _____ a.m./p.m.]

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

II. CUSTODY/SUPPORT

1. Custody

- Petitioner is granted temporary/permanent legal and physical custody of the minor children;
- Respondent is enjoined and restrained from interfering with Petitioner's custody of the minor children;
- Parties shall not remove the minor children of the parties from the Territory of Guam.
- Joint Legal Custody to Petitioner & Respondent, with Physical Custody to () Petitioner / () Respondent

2. Visitation

- ERICA's HOUSE () Neutral location: _____
- Every / Every other weekend from _____ at ___ a.m/p.m through _____ at ___ a.m/p.m, starting on _____.
- 30 Minute Rule will apply; If more than 30 minutes late for pick up - loose that visitation
More than 30 minutes late for return/drop off - loose next scheduled visitation.
- Respondent responsible for pick-up and drop-off at _____.
- Visitation to be supervised at Erica's House every _____ at ___ a.m./p.m.
- HOLIDAYS: Share all major holidays including, Christmas, New Years, Easter & Thanksgiving;
Share Child/ren(s) birthday, Father's Day w/Father, Mother's Day w/Mother.
- Additional visits may be arranged by parties.

3. Child Support

- Respondent shall pay child support in accordance with the guidelines.
- Respondent shall pay temporary child support in the amount of \$ _____ per month/per child until a hearing can set to determine the amount in accordance with the guidelines.

4. Medical/Dental Insurance

- Respondent shall continue to provide medical and dental insurance coverage for the minor children
- The Respondent shall provide medical insurance coverage for the minor children as soon as a program becomes available through his place of work;
- The Respondent shall pay any costs that incur, not covered by insurance, in proportion to the child support guidelines

III. YOU ARE FURTHER ORDERED TO:

- ___ Immediately deliver to the Marshals the following: _____
- ___ Surrender any and all firearms, firearm IDs, and firearm permits, in Respondent's control and/or possession to the Superior Court Marshals.
- ___ Other _____

ANY COMMUNICATION INITIATED BY PETITIONER DOES NOT WAIVE OR NULLIFY THIS ORDER. THE GUAM POLICE DEPARTMENT, AIRPORT POLICE, PORT AUTHORITY POLICE and SUPERIOR COURT MARSHALS SHALL ENFORCE THIS ORDER

Judge, Superior Court of Guam

EXHIBIT B

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

EXHIBIT C

IN THE SUPERIOR COURT OF GUAM

Order of Protection	Case No. PO # Court Superior Court of Guam County Hagatna State GUAM
----------------------------	--

PETITIONER	PETITIONER IDENTIFIERS
First Middle Last	Date of Birth of Petitioner
And/or on behalf of minor family member(s): (list name and DOB)	Other Protected Persons/DOB:
_____	_____
_____	_____

VS.

RESPONDENT	RESPONDENT IDENTIFIERS																														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 15%;">SEX</th> <th style="width: 15%;">RACE</th> <th style="width: 15%;">DOB</th> <th style="width: 15%;">HT</th> <th style="width: 15%;">WT</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <th>EYES</th> <th>HAIR</th> <th colspan="3">SOCIAL SECURITY #</th> </tr> <tr> <td> </td> <td> </td> <td colspan="3"> </td> </tr> <tr> <th colspan="2">DRIVER'S LICENSE #</th> <th>STATE</th> <th colspan="2">EXP DATE</th> </tr> <tr> <td colspan="2"> </td> <td> </td> <td colspan="2"> </td> </tr> </table>	SEX	RACE	DOB	HT	WT						EYES	HAIR	SOCIAL SECURITY #								DRIVER'S LICENSE #		STATE	EXP DATE						
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First Middle Last																															
Relationship to Petitioner: _____																															
Respondent's Address _____																															
CAUTION: <input type="checkbox"/> WEAPON INVOLVED	Distinguishing Features _____																														

THE COURT HEREBY ORDERS:

1. That the Respondent be enjoined and restrained from threatening, abusing, harassing or disturbing the peace and well-being of the Petitioner, Petitioner's minor child/ren, or removing them from Guam;
2. The Respondent is prohibited from coming within 500 / 1,000 feet of the Petitioner, Petitioner's residence and place of employment.
3. Contacting the Petitioner, directly or indirectly, by telephone, letter, e-mail or through third party.
[See reverse for additional orders]

THIS ORDER IS EFFECTIVE through _____.

Date: _____ Time: _____ Judge Superior Court

NOTICE TO RESPONDENT: VIOLATION OF THIS ORDER MAY SUBJECT THE VIOLATOR/S TO PUNISHMENT UNDER 9 G.C.A. §30-40, A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BY BOTH SUCH FINE OR IMPRISONMENT. FEDERAL LAW PROVIDES PENAL TIES FOR POSSESSING, TRANSPORTING, SHIPPING, OR RECEIVING ANY FIREARM OR AMMUNITION (18 U.S.C. §922 (g)(3) and (9)). THIS ORDER SHALL BE ENFORCED, EVEN WITHOUT REGISTRATION, BY THE COURTS AND LAW ENFORCEMENT OFFICERS OF ANY STATE, THE DISTRICT OF COLUMBIA, ANY U.S. TERRITORY, AND MAY BE ENFORCED BY TRIBAL LANDS (18 U.S.C. §2265). CROSSING STATE, TERRITORIAL, OR TRIBAL BOUNDARIES TO VIOLATE THIS ORDER MAY RESULT IN FEDERAL IMPRISONMENT (18 U.S.C. §2262).

[SERVICE: Respondent was served with a copy of this Order on _____ at _____: _____ a.m./p.m.]

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

EXHIBIT C

II. CUSTODY/SUPPORT

1. Custody

- Petitioner is granted temporary/permanent legal and physical custody of the minor children;
- Respondent is enjoined and restrained from interfering with Petitioner's custody of the minor children;
- Parties shall not remove the minor children of the parties from the Territory of Guam.
- Joint Legal Custody to Petitioner & Respondent, with Physical Custody to () Petitioner / () Respondent

2. Visitation

- ERICA'S HOUSE () Neutral location: _____
- Every / Every other weekend from _____ at _____ a.m/p.m through _____ at _____ a.m/p.m, starting on _____.
- 30 Minute Rule will apply; If more than 30 minutes late for pick up - loose that visitation
More than 30 minutes late for return/drop off - loose next scheduled visitation.
- Respondent responsible for pick-up and drop-off at _____.
- Visitation to be supervised at Erica's House every _____ at _____ a.m./p.m.
- HOLIDAYS: Share all major holidays including, Christmas, New Years, Easter & Thanksgiving;
Share Child/ren(s) birthday, Father's Day w/Father, Mother's Day w/Mother.
- Additional visits may be arranged by parties.

3. Child Support

- Respondent shall pay child support in accordance with the guidelines.
- Respondent shall pay temporary child support in the amount of \$ _____ per month/per child until a hearing can set to determine the amount in accordance with the guidelines.

4. Medical/Dental Insurance

- Respondent shall continue to provide medical and dental insurance coverage for the minor children
- The Respondent shall provide medical insurance coverage for the minor children as soon as a program becomes available through his place of work;
- The Respondent shall pay any costs that incur, not covered by insurance, in proportion to the child support guidelines

III. YOU ARE FURTHER ORDERED TO:

- _____ Immediately deliver to the Marshals the following: _____
- _____ Surrender any and all firearms, firearm IDs, and firearm permits, in Respondent's control and/or possession to the Superior Court Marshals.
- _____ Other _____

ANY COMMUNICATION INITIATED BY PETITIONER DOES NOT WAIVE OR NULLIFY THIS ORDER.
THE GUAM POLICE DEPARTMENT, AIRPORT POLICE, PORT AUTHORITY POLICE and SUPERIOR COURT MARSHALS SHALL ENFORCE THIS ORDER.

Judge, Superior Court of Guam

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

EXHIBIT D

IN THE SUPERIOR COURT OF GUAM

Order of Protection	Case No.	<input type="text" value="PO #"/>		
	Court	Superior Court of Guam		
	County	<input type="text" value="Hagatna"/>	State	<input type="text" value="GUAM"/>

PETITIONER	PETITIONER IDENTIFIERS
<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>
First Middle Last	Date of Birth of Petitioner
And/or on behalf of minor family member(s): (list name and DOB)	Other Protected Persons/DOB:
_____	_____
_____	_____

vs.

RESPONDENT	RESPONDENT IDENTIFIERS																														
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Respondent's Address _____																															
CAUTION: <input type="checkbox"/> WEAPON INVOLVED	Distinguishing Features _____																														

THE COURT HEREBY ORDERS:

1. That the Respondent be enjoined and restrained from threatening, abusing, harassing or disturbing the peace and well-being of the Petitioner, Petitioner's minor child/ren, or removing them from Guam;
2. The Respondent is prohibited from coming within 500 / 1,000 feet of the Petitioner, Petitioner's residence and place of employment.
3. Contacting the Petitioner, directly or indirectly, by telephone, letter, e-mail or through third party.

THIS ORDER IS EFFECTIVE through _____.

Date: _____ Time: _____ **Judge Superior Court**

NOTICE TO RESPONDENT: VIOLATION OF THIS ORDER MAY SUBJECT THE VIOLATOR/S TO PUNISHMENT UNDER 9 G.C.A. §30.40, A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BY BOTH SUCH FINE OR IMPRISONMENT. FEDERAL LAW PROVIDES PENAL TIES FOR POSSESSING, TRANSPORTING, SHIPPING, OR RECEIVING ANY FIREARM OR AMMUNITION (18 U.S.C. §922 (g)(8) and (9)). THIS ORDER SHALL BE ENFORCED, EVEN WITHOUT REGISTRATION, BY THE COURTS AND LAW ENFORCEMENT OFFICERS OF ANY STATE, THE DISTRICT OF COLUMBIA, ANY U.S. TERRITORY, AND MAY BE ENFORCED BY TRIBAL LANDS (18 U.S.C. §2265). CROSSING STATE, TERRITORIAL, OR TRIBAL BOUNDARIES TO VIOLATE THIS ORDER MAY RESULT IN FEDERAL IMPRISONMENT (18 U.S.C. §2262).

[SERVICE: Respondent was served with a copy of this Order on _____ at _____: _____ a.m./p.m.]

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

VIDEO CONFERENCING

SOURCE: Adopted as Interim Rule 15 by Sup. Ct. Prom. Order No. 06-004 for 30 days (Mar. 31, 2006), extended a minimum of 30 days by Sup. Ct. Prom. Order No. 06-004-1 (Aug. 9, 2006), adopted as Rule 15 by Sup. Ct. Prom. Order No. 06-004-2 (Oct. 13, 2006), effective immediately. Adopted as Miscellaneous Rule (“MR”) 3.1 of the Local Rules of the Superior Court by Sup. Ct. Prom. Order No. 06-006-01 (May 3, 2007). Amended by Sup. Ct. Prom. Order No. 06-004-03 (Feb. 27, 2015), effective Mar. 2, 2015.

MR 3.1. Video Conferencing.

(a) Video Conferencing in Certain Adult Criminal Proceedings.

(1) The trial court may, except as provided in section (3), use video conferencing technology in the following proceedings:

- (a) First appearances as defined by 8 GCA § 45.30;
- (b) Arraignments as defined by 8 GCA § 60.10;
- (c) Bail determination hearings as defined by 8 GCA §§ 40.10, .50;
- (d) Pretrial conferences as defined by 8 GCA § 80.10;
- (e) Criminal trial settings; and
- (f) Other pretrial motion hearings as defined by 8 GCA § 65.20.

(2) A record of any proceeding conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, the court may, upon its own motion or motion of a party, record a proceeding with an audio visual recording system.

The courtroom shall be accessible to the public to the same extent as such proceedings would be if not conducted by video conference.

(3) The trial court may order the personal appearance of a defendant in court for a proceeding governed by section (1) upon a finding of good cause.

(b) Video Conferencing in Certain Juvenile Proceedings.

(1) The Family Court may, except as provided in section (3), use video conferencing technology in the following proceedings:

- (a) Preliminary hearings pursuant to Guam Fam. Ct. R. 23;
- (b) Answers as defined by Guam Fam. Ct. R. 10; and
- (c) Other prehearing motions.

(2) A record of any proceeding conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, the court may, upon its own motion or motion of a party, record a proceeding with an audio visual recording system.

Pursuant to 19 GCA § 5112(a), the general public shall be excluded from hearings. The Family Court, however, may admit persons it finds have a direct interest in the case or in the work of the court into the courtroom.

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(3) The Family Court may order the personal appearance of a juvenile in court for a proceeding governed by section (1) upon a finding of good cause.

(c) Video Conferencing Standards.

(1) All participants must be able to see, hear and communicate with each other simultaneously.

(2) All participants must be able to see, hear and otherwise observe any physical evidence or exhibits presented during the proceeding either by video, PDF, facsimile, or other method.

(3) Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications.

(4) Each location must provide parties with a means of communicating fully and confidentially with counsel.

(5) In interpreted proceedings, the court may order that the interpreter be available to interpret when necessary subject to Guam Super. Ct. R. MR 1.1.4.

(6) Equipment for the immediate transmission of documents or papers, including but not limited to facsimile equipment and computers, must be made available.

(d) Standard Operating Procedures. The Subcommittee on the Proposed Rules and Procedures for Video Conferencing shall develop a set of Standard Operating Procedures necessary to implement the use of video conferencing technology in proceedings authorized by this rule. The Subcommittee, or other authorized body, may update and amend the Standard Operating Procedures as may be required.

ATTACHMENTS TO MISCELLANEOUS RULE 3.1

- A. Standard Operating Procedures for Video Conferencing in Magistrate Hearings
- B. Flowchart
- C. Order of Conditional Release and Appearance Bond

**LOCAL RULES OF THE
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ATTACHMENT “A”

**STANDARD OPERATING PROCEDURES FOR
VIDEO CONFERENCING IN MAGISTRATE HEARINGS**

The use of videoconferencing in magistrate hearings will be governed by MR 3.1 of the Local Rules of the Superior Court of Guam.

Pre-Hearing Procedures

- The Attorney General’s office (“AG”) will submit a Confirmation Listing to the Clerk’s office and the Department of Corrections Hagåtña Detention Facility (DOC) which provides the names of the detainees who will appear before the court.
- The AG will file six (6) copies of each complaint with the Intake Clerk. If there is more than one defendant, the AG will provide two (2) additional copies per defendant.
- The Intake Clerk will stamp file original complaints and copies, and assign a case number. *See Attachment B.*
- The Intake Clerk will forward the file to the Clerk.
- The Clerk will number each magistrate complaint on the bottom left hand corner in the order to be heard.
- The Clerk will fax one (1) copy of each complaint to DOC.
- Marshal will notify DOC at least thirty minutes prior to judge taking the bench.
- DOC will provide a copy of the complaint to each detainee prior to the magistrate hearing.

Post-Hearing Procedures

- Judge orders that the detainee be released from confinement.
- Judge will sign Order of Conditional Release and Appearance Bond (OCR).
- Clerk will make four (4) copies of signed OCR.
- Clerk will prepare and process OCR. *See Attachment B.*
- Marshal will bring the original and copies of OCR to DOC for the detainee to initial that he or she understands the conditions of his or her release.
- Marshal will return original OCR and three (3) copies to Clerk.
- Judge orders that the detainee remain in custody.
- Judge will sign the Commitment Order.
- Clerk will make one (1) copy of the Commitment Order.
- Clerk will prepare and process Commitment Order. *See Attachment B.*
- Marshal will bring the Commitment Order to DOC.

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Interpreted Proceedings

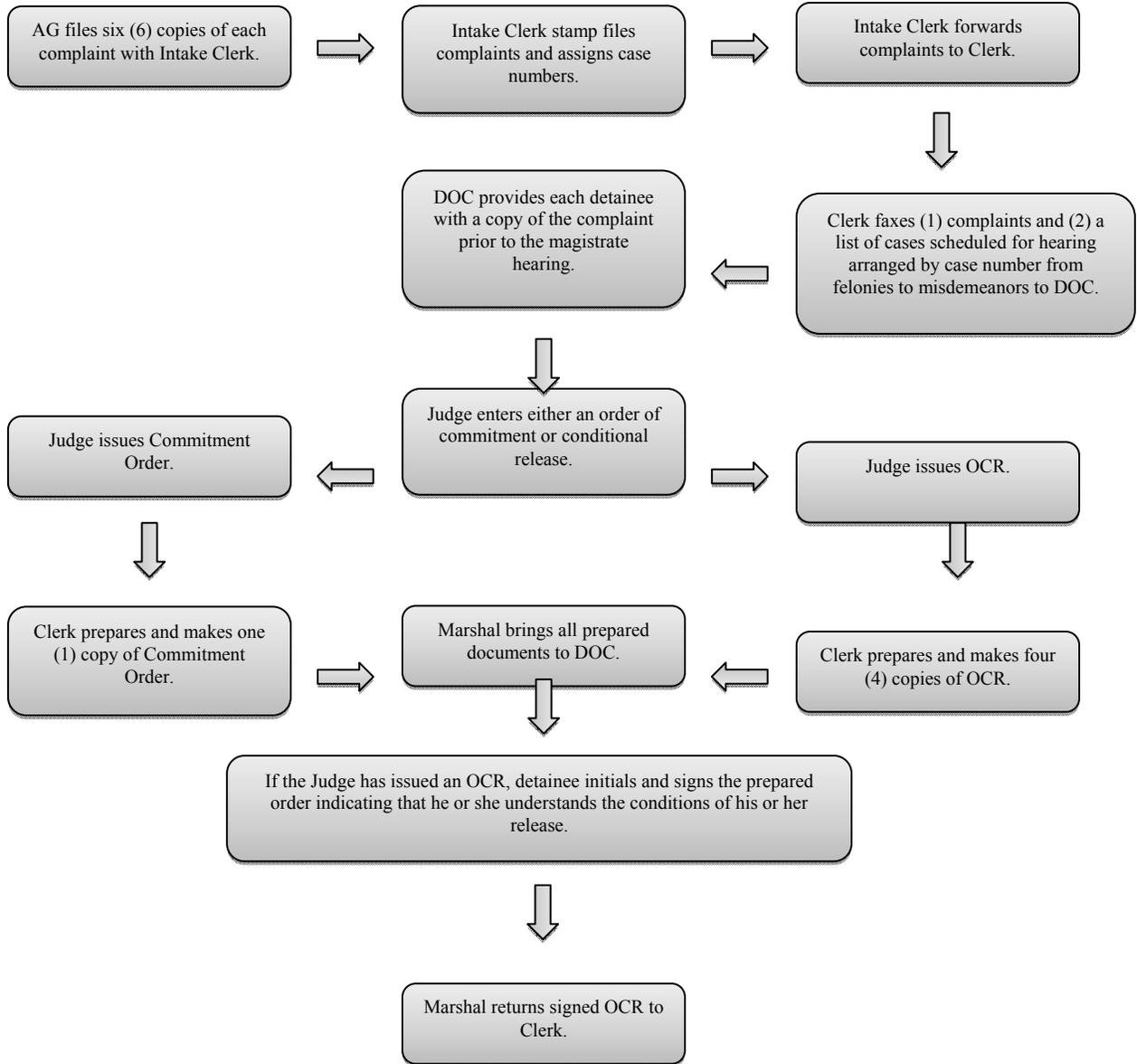
- The court may order that the interpreter be located next to the detainee during the hearing. Generally, however, the interpreter will be located in the courtroom.
- If an interpreter is necessary to explain the conditions of release contained in an OCR, one will be made available to meet with the detainee via videoconferencing after all of the hearings have been concluded. Alternatively, an interpreter will be made available to meet with the detainee at DOC.

Retained Counsel

- If the detainee has retained counsel who wishes to be present during the hearing, counsel has the option of appearing in either the courtroom or at DOC.

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**ATTACHMENT “B”
FLOWCHART**



CONTACT NUMBERS:

CONTACT	TELEPHONE
Magistrate Judge Tolentino	300-7089
Hagåtña Detention Facility	475-0180
Mangilao Detention Facility (Female)	734-4035 / 734-3981
Mangilao Detention Facility (High Risk Males)	734-3981

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ATTACHMENT "C"

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,)	CRIMINAL CASE NO. _____
)	
Plaintiff,)	
)	
vs.)	ORDER OF CONDITIONAL RELEASE
)	AND APPEARANCE BOND
)	
)	
Defendant(s).)	
_____)	

IT IS HEREBY ORDERED that Defendant is released from custody under the following conditions:

- 1. **BAIL:** \$ _____ Cash/Secured - Unsecured/Personal Recognizance (PR) Bond must be posted before Defendant is released, which amount shall be forfeited if Defendant fails to make any court appearance or violates any of the terms of this Release Order.
- 2. **APPEARANCE:** Defendant is ordered to appear next on _____, at _____, and shall appear at all further criminal trial proceedings.
- 3. **NO CONTACT/STAY AWAY:** Defendant is ordered to stay away from, and have no contact with the victim(s), either in person, through a third party, by telephone or letter, email, text or any electronic devices, including any specified witness or witnesses, _____ . Defendant shall stay away from the victim(s), his/her/their residence, dwelling, place of employment, school, day care center, establishment, or any family or social function. Upon becoming aware of the victims' presence, or planned presence, Defendant is ordered to immediately leave the function, or establishment.
- 4. **NO THREATS/ASSAULT/HARASSMENT:** Defendant is restrained from threatening to commit or committing acts of family violence against, or from harassing, annoying, or molesting the victim(s), or other family or household members, or any person named in the complaint or indictment or in this order.
- 5. **THIRD PARTY CUSTODIAN:** (1) _____ (2) _____ is/are appointed Third Party Custodian(s), whose residence is _____ and having agreed to supervise the defendant in accordance with the conditions contained herein; to use every effort to assure the appearance of the defendant at all scheduled hearings before the Court, and to notify the Court immediately in the event the defendant violates any condition of his/her release or disappears. Defendant shall reside with Third Party Custodian(s) and must be accompanied by the Third Party Custodian(s) at all times.
Signature (1) _____ (2) _____
- 6. **HOUSE ARREST:** Defendant is under house arrest and may not leave the above residence except for court appearances, to meet with defense counsel or the Probation Officer, to attend religious services, for emergency medical treatment, employment, or _____.
- 7. **CURFEW:** Defendant shall obey the following curfew: _____.
- 8. **FIREARMS:** Defendant shall not possess any firearms, or other deadly weapons. Any and all firearms or weapons, including identification card(s), must be removed from the Defendant's residence and surrendered to the Probation Office. Probation or the Police are authorized to search Defendant's person, residence, or vehicle for firearms/weapons.
- 9. **ALCOHOL/DRUGS:** Defendant shall not possess, use, and/or consume any alcoholic beverages and/or illegal controlled substances. Defendant shall submit to random/weekly alcohol and/or drug testing at the request of the Probation Office. Failure to submit to such testing will be considered a violation. Probation or the Police authorized to search Defendant's residence, vehicle, or person for alcoholic beverages and/or illegal controlled substances. Defendant shall not enter any alcohol establishment.
- 10. **CO-DEFENDANTS/FELONS:** Defendant shall have no contact with co-defendant(s) either in person, by telephone, by letter, email, text or any electronic devices, through a third party, or any other method. Defendant shall not associate with any known felons.
- 11. **REPORTING:** Defendant shall report to the Probation Office in person, by telephone: Weekly; Monthly.

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12. **TRAVEL:** Defendant must turn in his/her passport to the Probation Office. Defendant cannot leave Guam without permission of this Court.
13. **OTHER REQUIREMENTS:** _____.
14. **DEFENDANT SHALL OBEY ALL FEDERAL AND LOCAL LAWS, AND ABIDE BY ALL REASONABLE TERMS SET OUT BY PROBATION. DEFENDANT SHALL REPORT TO PROBATION OFFICE IN PERSON BEFORE 4:00 PM ON THE NEXT WORKDAY FOLLOWING THEIR RELEASE FROM CUSTODY.**

TO ALL PEACE OFFICERS: This Order shall be enforced by all peace officers.

SO ORDERED: _____.

JUDGE, SUPERIOR COURT OF GUAM

All conditions imposed by this Order are effective immediately. These conditions shall remain in effect until the Defendant is either sentenced, acquitted, or the charge is dismissed. Defendant shall acknowledge that he has read, understands, and has signed the conditions specifically ordered. *Any violation of paragraphs 3, 4, and 8 shall constitute a misdemeanor punishable by imprisonment of up to one (1) year or a fine of \$1,000.00, or both. 9 GCA § 30.40 (2005).* Violation of this order, may subject Defendant to federal charges and punishment. 18 U.S.C.A. §§ 2261(a)-(b), 2261A, 2262(a)-(b). This Order is enforceable in all 50 States, the District of Columbia, Tribal Lands, and U.S. Territories. 18 U.S.C.A. § 2265. It is unlawful for any person subject to an order for protection or convicted of a misdemeanor crime of domestic violence to ship, transport, possess, or receive firearms or ammunition. 18 U.S.C.A. § 922.

<p>I understand the methods and conditions of my release which have been checked above, the penalties and forfeitures applicable in the event I violate any condition of fail to appear as required.</p> <p>I agree to comply fully with each of the obligations imposed on my release and to notify the Court promptly in the event I change the address indicated below.</p> <p>I have received a copy of this order and I understand that a violation of this order is a Contempt of Court and shall cause me to be arrested and be subject to possible further criminal charges and/or revocation of my pre-trial release.</p> <p>Defendant's Name: _____</p> <p>Residential Address: _____</p> <p>City, State, and Zip Code: _____</p> <p>Telephone No.: _____</p> <p>_____ DATE</p> <p style="text-align: right;">_____ SIGNATURE OF DEFENDANT</p>	
--	--

Hagåtña, Guam)

Subscribed and sworn and sworn to before me this _____ day of _____, 20__.

Deputy Clerk / Deputy Marshal

**LOCAL RULES OF THE
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COURT-REFERRED MEDIATION RULES

SOURCE: Adopted as Interim Rule 16 of the Rules of the Superior Court of Guam by Promulgation Order No. 06-005-01 (July 20, 2006), extended and amended by Promulgation Order No. 06-005-02 (Jan. 19, 2007), Promulgation Order No. 06-005-03 (Jul 5, 2007), Promulgation Order No. 06-005-04 (Dec 23, 2013), Promulgation Order No. 06-005-05 (Dec 26, 2013). Adopted as Permanent Court-Referred Mediation Rules by Promulgation Order No. 06-005-06 (May 21, 2014).

MR 4.1. Title.

These rules shall be referred to as the Superior Court of Guam’s Court-Referred Mediation Rules.

MR 4.1.1. Purpose.

The Judiciary of Guam desires to encourage the prompt and equitable resolution of disputes, to reduce financial and emotional burdens of lengthy litigation, to promote restorative justice and peer mediation, and to resolve cases within recommended judicial time standards and these Rules support these principles.

MR 4.1.2. Scope and Application.

These Rules apply to all parties involved in non-criminal cases and have limited application in juvenile proceedings.

MR 4.1.3. Definitions.

(a) Mediation means a process in which a neutral person or organization facilitates communication between the disputants to assist in reaching a mutually acceptable agreement.

(b) Mediation costs include the following, unless otherwise ordered or agreed between the parties to the mediation:

- (1) A reasonable fee to be paid to the mediator or mediators;
- (2) The travel and other reasonable expenses of the mediator or mediators;
- (3) The travel and other reasonable expenses of witnesses requested by the mediator or mediators with the consent of the parties;
- (4) The cost of any expert advice requested by the mediation or mediators with the consent of the parties; and
- (5) The costs of any court or other institution’s administration of the mediation.

MR 4.1.4. Mediation Costs and Fees.

(a) Mediation should be accessible to all parties. Except for peer mediation, restorative justice, or court-ordered mediation in matters involving custody and visitation, mediation costs and fees shall be paid by the parties in equal proportions unless otherwise agreed to with the mediation service provider and parties. No party may offer or give a Mediator any gift without the consent of all the parties. A party may request the judge to be granted financial accommodation due to indigence as provided for below.

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(b) Any and all fees charged by the mediator shall be in accordance with a fee structure approved by the Chief Justice and made a part of the service provider agreement entered into between the Judiciary of Guam and the mediation service provider. Compensation shall be paid directly to the mediation service provider or as otherwise directed by the mediation service provider. Failure of a party to make payments due may result, upon motion or application, in the issuance of an order to pay, and imposition of sanctions. The Judiciary of Guam shall not be responsible for the collection or payment of any mediation fees or costs.

MR 4.1.5. Case Management Review for Mediation.

At any time after a case is filed, parties may agree by stipulation or the assigned judge may initiate mediation. The assigned judge may undertake a case management review for mediation at any time, in the discretion of the assigned judge including but not limited to, after the filing of last responsive pleading, at the scheduling conference, on the discovery deadline, and/or at the first pretrial conference.

MR 4.1.6. Attorney Certification.

Prior to the filing under CVR 16.1 of a Proposed Scheduling Order and a Proposed Discovery Plan, and no later than seventy-five (75) days after filing of the initial complaint, the attorneys are required to file a written certification regarding mediation, using Form B1.

MR 4.1.7. Parties' Duty to Confer and Report.

The parties shall meet and confer about whether they might benefit from mediation services, and the most appropriate time for mediation to be conducted. In every Proposed Scheduling Order and Proposed Discovery Plan parties must report their shared or separate views about the possible benefits of mediation in the particular case, and when mediation should occur.

MR 4.1.8. Mediation Referral Procedures.

The following procedures govern referral of a case to mediation services:

(a) Judicial Referral. All judges should conduct regular review of their case dockets for mediation referral. Consideration should include factors such as the age of the case, subject matter, the amount in controversy, the complexity of issues, the number of parties, prior referrals, and the likelihood of settlement. Prior to referral, the assigned judge may discuss with the parties the prospects for settlement of the case through mediation services.

(b) Stipulation of Parties. The parties may agree to engage in mediation by stipulation requesting the assigned judge to issue an Order of Mediation to an appropriate mediation service provider selected by the parties, or as determined appropriate by the assigned judge.

MR 4.1.9. Order For Mediation.

(a) An Order for Mediation, using Form B2, shall be issued requiring the parties to commence mediation promptly, appointing a designated mediation service provider, and ordering the parties to contact the mediation service provider promptly.

(b) Designated Mediation Service Provider. An Order for Mediation shall refer the parties to a mediation service provider approved by the Chief Justice of the Supreme Court of Guam, unless the parties agree by stipulation to mediation not covered by these rules.

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(c) Stay of Proceedings. A stay of all proceedings, a portion of the proceedings or of discovery may be ordered when the assigned judge determines a stay would be beneficial, otherwise no stay should be entered while a case is in mediation. All applicable limitation periods, including periods of prescription, shall be tolled or extended upon commencement of mediation, and shall remain tolled until the tenth (10th) day following the termination of mediation.

(d) Contact Information Required. The Order for Mediation shall include the name, address and telephone number of the mediation services provider designated by the assigned judge to conduct mediation in the case. It shall also include the names and contact information of the attorneys or self-represented litigants participating in mediation.

(e) Hearing on Status of Mediation. The Order for Mediation shall provide for a hearing on the status of mediation services within sixty (60) days of the date the order is issued. The hearing may be continued where the parties have agreed to extend mediation services as herein provided.

MR 4.1.10. Relief from Judicially Referred Mediation.

(a) When an assigned judge has referred a case to mediation absent a stipulation of the parties, a party may file a “Statement Requesting Relief from Order for Mediation” using Form B3, seeking return of the case to the assigned judge’s regular docket.

(b) The Statement must be filed within ten (10) calendar days of the date of filing the Order for Mediation, and must provide the reason(s), supported by relevant facts, why the party believes the case is not then appropriate for mediation.

(c) If the assigned judge agrees that the case should be removed from mediation an Order For Relief From Mediation shall issue using Form B4 within 15 days of the filing of the Form B3 Statement Requesting Relief from Order for Mediation. The assigned judge may hold a hearing on the issue at his or her discretion. Absent such an order, the case shall remain in mediation. Unless and until an order removing a case from mediation is filed, the mediation process shall continue notwithstanding the filing of the Statement Requesting Relief from Order for Mediation.

MR 4.1.11. Financial Accommodation for Indigent Parties.

(a) The Judiciary recognizes that certain parties may not have the financial resources to pay for the costs and fees of mediation and does not want financial considerations alone to prevent parties from participating in court referred mediation. Therefore the Judiciary will permit parties to request indigent status.

(b) A party requesting indigent status shall file a Statement of Financial Indigence using Form B5 no later than five (5) business days after filing of the Order for Mediation.

(c) No party shall qualify for indigent status if represented by an attorney, except for pro bono or non-profit legal service representation for which the party pays no attorney fees. Financial qualification for indigent status shall be based on the same financial guidelines for eligibility for indigent representation in criminal cases in the Superior Court of Guam.

(d) The assigned Judge shall make a determination on a party’s indigent status request, within ten (10) calendar days of the request, using Form B6.

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(e) If indigent status is approved, the judge shall refer the indigent party to an appropriate mediation service provider, issuing an amended Order for Mediation using Form B2, where financial accommodations are available.

MR 4.1.12. Sanctions for Nonappearance of Party at Scheduled Session.

A party who fails to appear at mediation without good cause may be subject to contempt and sanctions upon the issuance of an Order to Show Cause by the judge assigned to the case using Form B7. Sanctions may be imposed on attorneys or parties and may include payment of mediation costs and fees incurred for the scheduled mediation session(s), as well as other costs and fees, including attorney's fees, of the party appearing for the scheduled session(s).

MR 4.1.13. Conduct of Mediation.

(a) Mediation is deemed to have commenced upon the filing of the Form B2 Order for Mediation.

(b) Scheduling Pre-Mediation Conference. The parties, and the attorneys primarily responsible for the litigation, shall promptly, after receiving an Order for Mediation, contact the designated mediation service provider to schedule a pre-mediation conference/teleconference with the mediator, at which all parties or their counsel must participate, to establish the date, time and place for mediation, the procedures to be followed in mediation, and the names of all persons who will be attending mediation sessions.

(c) Mediation Statements. Counsel should be prepared to discuss the following:

(1) Identity, by name and title or status of:

(A) Person(s) with decision making authority, who, in addition to counsel, will attend the mediation as representative(s) of the party; and

(B) Person(s) connected with a party opponent whose presence might substantially improve the utility of the mediation or the prospects for settlement;

(2) Brief description of the substance of the suit, addressing the party's views of the key liability issues and damages and discussing the key evidence;

(3) Identify the discovery or motions that promise to contribute most to equipping the parties for meaningful settlement negotiations;

(4) Except to the extent prohibited by applicable laws of privilege, describe the history and current status of any settlement negotiations;

(5) Provide additional information about any needs, interests or other considerations not described elsewhere in the statement that might be pertinent to settlement; and

(6) Include copies of documents likely to make the mediation more productive or to materially advance settlement prospects.

SOURCE: U.S. Dist. Ct. Northern Dist. of Calif. ADR Local Rule 6-7.

MR 4.1.14. Confidentiality.

(a) Notwithstanding Guam Rule of Evidence 504.2, no information used or discussed in mediation shall be communicated to the assigned judge, unless expressly consented to by all parties. No writing of the mediator, except the Mediator's Statement as required by the Court to

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be filed, shall be disclosed to the parties, the public, or anyone other than the mediator, unless all parties consent to the disclosure. All information disclosed, admissions of the parties, and documents produced in mediation shall be inadmissible and protected from disclosure at all times before, during, or after mediation, except as permitted by law or these Rules.

(b) A mediator has the duty to disclose to the proper authorities information obtained in mediation which the mediator reasonably believes will prevent a participant from committing a criminal or illegal act likely to result in death or serious bodily injury. No mediator may be required to participate in any subsequent hearing or trial of the mediated matter or appear as a witness or counsel for any person in the same or related matter.

MR 4.1.15. Evidence Admissible.

Evidence which is admissible or subject to discovery outside mediation shall not become inadmissible or protected from disclosure solely by reason of its use in mediation.

MR 4.1.16. Evidence Not Admissible.

Evidence which is inadmissible or not otherwise subject to discovery outside of mediation which is disclosed during mediation proceedings, or any admission made by the parties or document produced in the course of mediation, shall not become admissible in evidence at a later trial in the case, nor can any disclosure therein made be compelled in any civil or criminal action, except upon consent of all the parties.

MR 4.1.17. Stipulated Extension of Mediation – Limited.

In the event the parties are unable to commence mediation or reach any agreement within sixty (60) calendar days of the filing of the Order for Mediation, the parties may agree that continued mediation is appropriate. The parties may stipulate to successive mediation to be commenced within ninety (90) calendar days of the filing of the Order for Mediation without further approval of the assigned judge. Notice of any such successive mediation shall be promptly provided to the assigned judge through the Mediation Service Provider's filing of a Mediator's Statement, using Form B8. No further extensions of mediation are permitted without approval of the assigned judge.

MR 4.1.18. Termination or Conclusion of Mediation Services.

Mediation may be terminated or concluded at any time as follows:

- (a) A written declaration by the mediator that mediation efforts are not currently justified;
- (b) A written declaration by all the parties that mediation is terminated by mutual agreement of all the parties, or terminated as to particular parties; or
- (c) Signing of a mediation settlement agreement by all parties to that agreement.

MR 4.1.19. Mediator's Statement.

Within ten (10) calendar days of the completion of mediation services, or termination of mediation by all the parties, Form B8 -- Mediator's Statement shall be filed with the Court by the Mediation Services Provider advising the assigned judge of the outcome of the mediation.

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MR 4.1.20. Stipulated Judgment Upon Mediation – Enforcement.

The parties may submit, and the assigned judge may enter, a Stipulated Judgment Upon Mediation, using Form B9, and which thereafter may be enforced as any Superior Court of Guam judgment may be enforced.

MR 4.1.21. Qualification of Mediators.

The Chief Justice of the Guam Supreme Court shall approve all mediators who are engaged by mediation service providers at the time the Judiciary enters into an agreement with the mediation service provider. Mediation service providers who are engaged at the time of the adoption of these Rules are deemed approved. All mediators engaged by an approved mediation service provider shall be deemed approved by the Chief Justice. Additional qualification, training and experience may be required of mediators from time to time by the Supreme Court. In the absence of training qualifications it shall be the duty and responsibility of the mediation service provider to exercise all proper due diligence to ensure the qualifications of all mediators it engages.

MR 4.1.22. Standards of Conduct for Mediators.

The ethical standards applicable to mediation service providers, and mediators, shall be the 2005 Model Standards of Conduct for Mediators. Attached as Appendix A.

MR 4.1.23. Data Collection Requirements.

The Clerk of Court shall collect all data pertaining to all Orders for Mediation, and Mediator's Statements, and shall report to the Chief Justice within a reasonable time following the end of each calendar year regarding mediation services within the Superior Court of Guam during the prior year.

MR 4.1.24. Judicial Time Standards Tolloed.

The aging of a case referred to mediation shall be tolled for case age time standard purposes until such time as mediation ends. Tolling commences from date of the issuance of the Order for Mediation and ends when the assigned judge determines mediation has concluded or terminated.

MR 4.1.25. Juvenile Proceedings.

(a) These rules do not strictly apply to juvenile special proceedings including, but not limited to, PINS, beyond control, truancy, guardianship, and delinquency cases. Judges may exercise discretion and order mediation in such proceedings.

(b) These rules do not strictly apply to juvenile delinquency proceedings. Judges may exercise discretion and order mediation, peer mediation, or restorative justice in juvenile delinquency proceedings.

(c) For juvenile proceedings, the judge may refer such cases to appropriate government or non-government programs or to the mediators approved by the Chief Justice.

APPENDICES TO RULES

A. Model Standards for Conduct of Mediators

B. Forms

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- B1. Mediation Certification
- B2. Order for Mediation
- B3. Statement Requesting Relief from Order for Mediation
- B4. Order for Relief from Order for Mediation
- B5. Statement of Financial Indigence
- B6. Order Regarding Indigent Status
- B7. Order to Show Cause Regarding Failure to Mediate
- B8. Mediator's Statement
- B9. Stipulated Judgment Upon Mediation

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
MEDIATION CERTIFICATION MR 4.1 Form B1	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

I hereby certify that I have:

- (1) Read the Judiciary of Guam’s Brochure entitled, “How Mediation Can Work for You,” and the Local Rules of Court for the Superior Court of Guam regarding Court Ordered Mediation, found at MR 4.1;
- (2) Provided my client with a copy of the Judiciary of Guam’s Brochure, and discussed mediation with my client as an alternative to proceeding with litigation; and
- (3) Considered whether this case might benefit from mediation, or any other alternative dispute resolution options.

DATED:

[Name of Counsel]
Counsel for:

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
ORDER FOR MEDIATION MR 4.1 Form B2	
Plaintiff(s):	CASE NUMBER(S):
Defendant(s):	

The Court has determined this matter appropriate for mediation.

The parties have mutually agreed or stipulated to refer this matter to mediation.

Now Therefore It Is Ordered, that this matter be referred to the following mediation service provider:

Inafa' Maolek 297 West O'Brien Dr., Hagatna, Guam 96910 (475-1977)

Pacific Arbitration & Mediation Services, Inc. ("PAMS"), 238 Archbishop Flores St., Ste. 801, Hagatna, GU 96910 (472-2089)

Other:

It is Further Ordered that the parties immediately contact the mediation service provider to make arrangements for scheduling mediation. While this matter remains referred to mediation it is:

Stayed in its entirety;

Stayed, in part, as follows: _____

Names and contact information of attorneys and self-represented litigants participating in mediation:

A Hearing on Status of Mediation within sixty (60) days of this Order is set for:

_____.

SO ORDERED this: _____.

JUDGE, Superior Court of Guam

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
STATEMENT REQUESTING RELIEF FROM ORDER FOR MEDIATION MR 4.1 Form B3	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

Relief from Order For Mediation is hereby requested. The reasons supporting this request are as follows:

(PROVIDE FACTS AND ARGUMENTS)

Dated: _____

[Name of Counsel]

Counsel for:

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
ORDER FOR RELIEF FROM ORDER FOR MEDIATION MR 4.1 Form B4	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

THE COURT, having reviewed the Statement Requesting Relief from Order for Mediation filed by a party herein, and based on said application, **HEREBY ORDERS** that this matter is removed from mediation and reactivated on the docket.

A hearing is therefore set in this matter for _____ day of _____ 20__ at _____ o'clock ____ m. All previous stay orders are vacated.

SO ORDERED this: _____.

JUDGE, Superior Court of Guam

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
STATEMENT OF FINANCIAL INDIGENCE MR 4.1 Form B5	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

I, _____, **DECLARE UNDER PENALTY OF PERJURY**, the following:

- 1) That I am a party to these proceedings, and I am not represented by an attorney, or am represented by pro bono counsel or by a legal services organization for which I pay no attorney fees;
- 2) That I qualify for financially indigent status pursuant to Local Rule of the Superior Court of Guam MR 1.1 which places an impediment on my participation in mediation services;
- 3) That I submit herewith, attached hereto, my completed MR 1.1 Financial Declaration as required for purposes of the Court’s review; and
- 4) I request an accommodation be made for my participation in mediation.

Dated: _____

Declarant
[] Plaintiff
[] Defendant

Financial Declaration attached

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

SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
ORDER REGARDING INDIGENT STATUS MR 4.1 Form B6	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

_____, a party in this matter, has filed a Statement of Financial Indigence. Based on said statement and its accompanying Financial Declaration,

THE COURT HEREBY FINDS that:

- The party is indigent, and therefore **ORDERS** the following accommodation(s):
 - The indigent party shall pay ____% of mediation service fees.
 - The indigent party shall not be required to pay.
 - The first four (4) hours of mediation services shall be free of cost to the indigent party.
 - Mediation is hereby dismissed.
 - Other: _____
- The party is not indigent.

SO ORDERED this: _____.

JUDGE, Superior Court of Guam

**LOCAL RULES OF THE
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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
ORDER TO SHOW CAUSE REGARDING FAILURE TO MEDIATE MR 4.1 Form B7	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

TO:

YOU ARE HEREBY ORDERED TO APPEAR AND SHOW CAUSE WHY the Court should not hold you in contempt and sanction you for failing to participate in court ordered mediation.

YOUR APPEARANCE IS REQUIRED on _____ day of _____, 20____, at _____. Failure to appear at the hearing as herein required may result in the Court taking action against you, to include possible contempt of Court, and/or payment of costs and fees incurred by the mediator as a result of your failure to attend mediation as well as other costs and fees of the parties who appeared for the scheduled mediation.

SO ORDERED this: _____.

JUDGE, Superior Court of Guam

**LOCAL RULES OF THE
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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
MEDIATOR'S STATEMENT MR 4.1 Form B8	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

Mediation was conducted in this matter with the following results:

- The parties have reached a written agreement as to all or some of the claims.
- The parties have agreed that a Stipulated Judgment shall be entered confirming their agreement(s).
- The parties have requested dismissal of the complaint initiating the case.
- The parties have agreed to terminate the mediation.
- The parties have stipulated to extend mediation by thirty (30) days pursuant to MR 4.1.17.
- Other (insert relevant summary explanation in space below):

DATED: _____

Mediation Service Provider
Address: _____
Contact: _____

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SUPERIOR COURT OF GUAM	[Reserved for Court stamp file]
STIPULATED JUDGMENT UPON MEDIATION MR 4.1 Form B9	
Plaintiff(s): Defendant(s):	CASE NUMBER(S):

The Parties herein, by and through their respective counsels, having engaged in successful mediation as ordered by the Court, do hereby mutually stipulate and agree that this JUDGMENT be entered as follows:

[INSERT LANGUAGE OF JUDGMENT]

[Name of Counsel]
Counsel for:

[Name of Counsel]
Counsel for:

SO ORDERED this: _____.

JUDGE, Superior Court of Guam

**LOCAL RULES OF THE
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SMALL CLAIMS

MR 5.1. Small Claim Rules and Procedures.

These rules and procedures shall be known and may be cited as “The Small Claims Rules and Procedures.”

NOTE: Formerly Rule 92 of the Guam Rules of Civil Procedure. Adopted and made part of the Miscellaneous Rules of the Local Rules of the Superior Court of Guam by Supreme Court Promulgation Order Nos. 06-006-02 and 10. Except where otherwise indicated, these rules were approved and adopted by the Judicial Council on May 19, 1999 and effective June 1, 1999.

MR 5.1.1. Authority to Waive Compliance.

The Small Claims judge or referee has the authority to waive compliance with the Small Claims Rules and Procedures in order to effectuate substantial justice between the parties.

MR 5.1.2. Small Claims Division.

A Small Claims Division is created within the Superior Court of Guam pursuant 48 U.S.C. § 1424(a)(2) and Guam Public Law 20-28 (June 13, 1989).

MR 5.1.3. Definitions.

Unless the context indicates otherwise:

(a) “Plaintiff” means the party who has filed a Small Claims action; the term includes a defendant who has filed a claim against a plaintiff.

(b) “Defendant” means the party against whom the plaintiff has filed a Small Claims action; the term includes a plaintiff against whom a defendant has filed a claim.

(c) “Judgment Creditor” means the party, whether plaintiff or defendant, in whose favor a money judgment has been rendered.

(d) “Judgment Debtor” means the party, whether plaintiff or defendant, against whom a money judgment has been rendered.

(e) “Person” means an individual, corporation, partnership, limited liability company, firm, association, or other entity.

(f) “Individual” means a natural person.

(g) “Party” means a plaintiff or defendant.

(h) “Motion” means a party’s written or oral request to the court for an order or other action; the term includes an informal written request to the court, such as a letter.

(i) “Declaration” means a written statement signed by an individual which includes the date and place of signing, and a statement under penalty of perjury that its contents are true and correct.

(j) “Good cause” means circumstances sufficient to justify the requested order or other action, as determined by the judge or referee.

(k) “Mail” means first-class mail with postage fully prepaid, unless stated otherwise.

MR 5.1.4. Jurisdiction.

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Any person having a claim of ten thousand (\$10,000.00) dollars or less may apply for relief through the Small Claims Division. Counterclaims or cross-claims may also be filed for up to ten thousand (\$10,000.00) dollars. If a bona-fide counterclaim or cross-claim is in excess of ten thousand (\$10,000.00) dollars, the matter shall be handled as a regular civil or other case. Any person having a claim against him or her for more than five thousand (\$5,000.00) dollars may make a timely application to the court for transfer of the matter out of the Small Claims Division to be handled as a regular civil or other case within the Superior Court of Guam, which motion, if timely made, shall be granted as a matter of right.

MR 5.1.5. No Right to a Jury Trial.

Parties who file their case in the Small Claims Division or who appeal their case are not entitled to a jury trial.

MR 5.1.6. Removal.

Any person against whom a claim is filed in the Small Claims Division may apply to the Court for transfer of the matter out of the Small Claims Division to the Superior Court of Guam to be handled as a regular civil or other case. The court may grant such a motion only upon a showing of significant prejudice for the applicant if the matter continues in the Small Claims Division, or a clear showing by the applicant that the Small Claims Division is an inappropriate forum. The court may consider the costs of pursuing a regular case and availability of attorneys who might handle the matter as some of the deciding factors. Such motion for discretionary transfer shall be disfavored, and shall be granted only in exceptional cases.

MR 5.1.7. Court Sessions; Schedules.

Sessions of the Small Claims Court may be scheduled at any time and on any day, including Saturdays, but excluding other Government of Guam holidays. They may also be scheduled at any public building within Guam, including places outside the courthouse.

MR 5.1.8. Filing Fees.

The filing fee for filing a complaint or counterclaim or cross-claim in Small Claims cases shall be one (1%) percent of the amount claimed for the first one thousand (\$1,000.00) dollars and two (2%) percent for all amounts thereafter, provided, that the total filing fee does not exceed the cost of filing a civil case in the Superior Court of Guam.

If the case is removed from the Small Claims Division to the Superior Court, the party requesting removal shall pay the filing fee for a civil case filed at Superior Court.

MR 5.1.9. Attorneys.

(a) Pro Se. Parties filing or defending a claim in the Small Claims Division need not hire an attorney and are encouraged to appear on their own behalf. However, if one party is represented by an attorney then the other party shall be given an opportunity to obtain an attorney. The court shall have the discretion to set time limitations for a party to hire an attorney. The parties shall have the right to offer evidence in their behalf by witnesses. The court may also informally make any investigation of the controversy between the parties. The court may give judgment and make such orders as to time of payment or otherwise as may, by him, be deemed to be right and just and, in an action against several defendants, may, in his discretion, give judgment against one or more of them, leaving the action to proceed against the others, whenever a separate judgment is proper.

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(b) Attorney's Fees. No attorney's fee may be awarded in Small Claims cases unless expressly authorized by statute or in contract cases as stated in the contract, and only at the discretion of the court.

(c) Representation by Persons who are not Attorney's. Representation by persons who are not attorney's will be subject to the following provisions:

(1) A bona fide full time employee, officer or director of a corporation may represent such corporation in Small Claims court.

(2) Persons who are not attorneys and are not subject to subsection (1) above shall not represent or advise any other person in Small Claims court.

(3) No claim shall be filed or presented by the assignee of such claim, unless the assignee is an attorney admitted to practice law in Guam and the assignor is not a resident of Guam.

MR 5.1.10. Referee.

(a) Appointments. Small Claims cases may be heard by any Judge of the Superior Court of Guam, a magistrate appointed under 7 GCA § 4401 or the Chief Justice may appoint one or more Small Claims Referees from among members of the Guam Bar Association, to hear Small Claims cases pursuant to court rules, who shall have the power of a Superior Court Judge in respect to such Small Claims matters. Such appointments shall be for six months or less. Incumbent Referees may be reappointed by the Chief Justice for additional terms of six months or less. Referees may be disqualified from hearing a matter in the same manner as a Judge of the Superior Court may be disqualified.

As used in this Rule, Referees may be referred to as "Judge" or "Judicial Officer".

(b) Civil Liability of Small Claims Referees. No referee shall be liable in a civil action for damages by reason of any judicial action or judgment rendered by him or her.

(c) Contempt Powers of Small Claims Referees. Pursuant to 7 GCA, § 7119, Small Claims Referees are judicial officers whose powers include, but are not limited to, the powers as stated in 7 GCA, § 7111, and powers of contempt as stated in 7 GCA, § 7112.

(d) Injunctions: What is, and Who May Grant it. An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, by a judge, or by a Small Claims Referee thereof, and when granted by a judge or Small Claims Referee it may be enforced as an order of the court. The provisions in Title 7 relating to injunctions and the procedures in CVR 65 of the Guam Rules of Civil Procedure apply to the Small Claims Division.

MR 5.1.11. Law Clerks Authorized.

The Small Claims Division may use law clerks to assist the court with legal research of Small Claims cases.

MR 5.1.12. Ex Parte Applications Before Small Claims Referee.

All applications for ex parte orders may be heard in open court at a time to be prescribed by the judge or referee. Such applications shall be accompanied by a declaration containing the following:

(a) Name of the opposing party and their counsel, if any;

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(b) That good faith effort has been made to advise the opposing party or their counsel, of the date, time, place and substance of the ex parte application, or there as on supporting the claim that notice should not be required;

(c) Who opposes the application;

(d) Which party or counsel expresses an intention to be present at the time the application will be presented to the court.

This rule does not apply to an application for an alternative writ of mandate, prohibition or review, or a subpoena.

MR 5.1.13. Ex Parte Communications.

(a) No one shall directly or indirectly communicate with a Judge, Referee or Judicial Officer, the Judge's chamber personnel (including law clerks), the Clerk of Court, or the Clerk's Deputies and Assistants about any mater pending with the court except:

(1) In open court; or

(2) With the consent of all other parties or their counsel in such matters; or

(3) In the presence of all other parties or their counsel in such matters; or

(4) By means of motions, or other papers provided for or allowed by rule or law.

(b) Nothing in this Rule shall prevent the Clerk of Court from entertaining questions or complaints.

(c) The practice of writing a letter to a judge or judicial officer (even when the opposing party or their counsel receives copies of such letter) is expressly prohibited.

MR 5.1.14. Court Records.

The Clerk shall establish and maintain a Small Claims Division docket and enter herein:

(a) The title of every action;

(b) The sum of money claimed;

(c) The date of issuance of the summons;

(d) The judgment of the Court and when required;

(e) The date of receipt of a motion for a new trial, if any be filed, and the payment of the fee.

MR 5.1.15. Docketing Statement.

No complaint or declaration is acceptable for filling unless accompanied by a properly executed docketing statement. The Clerk of Court shall prescribe the form of the docketing statement and shall make such forms available.

MR 5.1.16. Commencement of Action; Forms; Necessary Information.

(a) A plaintiff may commence a Small Claims action by filing a complaint or declaration under oath with the Small Claims court. The plaintiff must submit enough copies of the compliant or declaration for the following: the court, the plaintiff, and each named defendant.

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(b) The complaint or declaration shall be a simple nontechnical form approved by the Judicial Council. The complaint or declaration shall set forth

(1) the name and address of the defendant, if known;

(2) the amount and basis of the claim;

(3) that the plaintiff, where possible has demanded payment and, in applicable cases, possession of the property;

(4) that the defendant failed or refused to pay, and, where applicable, has refused to surrender the property; and

(5) that the plaintiff understands that the judgment on his or her claim will be conclusive and without a right of appeal.

(c) The form and accompanying instructions shall include information that the plaintiff

(1) need not be represented by an attorney,

(2) has no right of appeal on his or her claim, and

(3) may ask the court to waive fees for filing and serving the claim on the grounds that the plaintiff is unable to pay them, using the forms approved by the Judicial Council for that purpose.

MR 5.1.17. Summons; Service.

The plaintiff shall also submit a summons with the complaint or declaration for each defendant named in the complaint or declaration. The Clerk shall sign the summons and immediately thereafter shall cause the summons and a copy of the complaint or declaration to be served by the Marshal upon each named defendant. The Clerk shall then attach to the original complaint or declaration for the Marshal's return of service.

MR 5.1.18. Counterclaim.

The defendant in any such action may file a verified answer stating any new matter which shall constitute a counterclaim; a copy of such answer shall be delivered to the plaintiff in person not later than forty-eight (48) hours prior the hour set for the appearance of the defendant in such action. The applicable provisions of the Guam Rules of Civil Procedure relating to counterclaims is hereby made applicable to the Small Claims Division of the Superior Court except as herein provided in this Rule.

MR 5.1.19. Time for Appearance.

Order for Plaintiff to Appear and Approve Claim: Application for New Order for Appearance of Defendant. The date for the appearance of the defendant as provided in the summons endorsed on the affidavit shall not be more than thirty (30) days nor less than twenty (20) days from the date of said summons.

When the Clerk has fixed the date and time for the appearance of the defendant, he shall inform the plaintiff of said date and time, order the plaintiff to appear and to have with him his books, papers and witnesses necessary to prove his claim. If the summons is not served upon the defendant at least five (5) days prior to the appearance date, the court must, upon request of an appearing defendant, continue the date of the hearing for not less than ten (10) days, and in such case, the Clerk shall inform the plaintiff of the new date set for the hearing.

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If the summons is not served upon the defendant prior to the appearance date, the plaintiff may apply to the judge, referee or clerk for a new summons setting a new date for the appearance of the defendant which shall not be more than thirty (30) days nor less than twenty (20) days from the date of the new summons.

MR 5.1.20. Mandatory Mediation.

Upon the timely request of any party to a Small Claims action or upon the court's own initiative, the court may order and structure mandatory mediation between the parties.

MR 5.1.21. Motion Practice.

(a) **Calendaring and Service.** A motion shall be served not later than five (5) days before the time set for hearing. The court may allow the non-moving party five (5) or more days to review the motion and file a response to the motion. If the non-moving party waives any response time allowed by the court, the court may hear the matter immediately. If the non-moving party does not waive the response time allowed by the court, then the court shall set the next hearing date not less than five (5) days from that hearing date.

(b) **Reply and Supplemental Memorandum.** Unless the court otherwise orders, no reply or supplemental memoranda shall be filed,

(c) **Further Proceedings on Motion under Advisement.** No motion addressing the a lack of a decision may be filed with the court prior to the expiration of fourteen (14) calendar days from the last hearing on a motion.

(d) **Proposed Orders.**

(1) A moving party and each party opposing a motion may prepare, or may be read to prepare by the court, a proposed order for submission to the court. Prior to the commencement of the hearing, the parties should exchange proposed orders and be prepared to discuss the appropriateness of those orders should the court rule from the bench.

(2) In lieu of the proposed order described above, a party may submit a statement containing language which the court could adopt in fashioning its own order.

(3) For the purposes of this rule, a warrant of arrest is an order.

(e) **Orders.** After a hearing the court may require the prevailing party to prepare an order which is consistent with the ruling of the court in that matter. The prevailing party shall expeditiously submit the order to the opposing party for his review and signature who shall then expeditiously return the order to the prevailing party. The order shall then be expeditiously submitted to the court for its final approval, signature and filing. In the event that the parties are unable to agree upon the wording of the order, then a hearing shall be requested by the party required to prepare the order.

MR 5.1.22. Continuance.

Hearings may be continued upon the filing of a written stipulation signed by the parties and their respective attorneys, if any. If after exercising due diligence a party's signature cannot be obtained by his counsel, the attorney shall submit with the stipulation an affidavit stating the reasons why the signature could not be obtained. The court after reviewing the affidavit may then accept the stipulation for further consideration. Stipulations shall include a proposed date for the continued hearing and are subject to the approval of the court. Stipulations for continuances shall not be treated as ex parte applications.

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MR 5.1.23. Discovery.

Discovery is permitted in Small Claims actions upon prior approval by the court which may include reasonable interrogatories, request for production of documents, request for admissions, and depositions.

MR 5.1.24. Rules of Evidence.

For purposes of Small Claims cases, the court may relax the Guam Rules of Evidence, including the rules relating to proof of damages, in order to effectuate the purpose of the Small Claims Court.

MR 5.1.25. Utilities Disputes.

The Small Claims Court shall have the ability to issue declaratory rulings or other forms of relief as is just in disputes over utility billings. The court may provide for continued utility services pending its final decision and sanction parties pursuant to its contempt powers for bad faith disputes over utility billings.

MR 5.1.26. Filing.

(a) Untimely Filing. Absent good cause shown, papers not timely filed shall be disregarded by the court.

(b) Photocopied Facsimiles Accepted. Legible photocopies of electronically transmitted papers are acceptable for filing. A cover sheet may be used when necessary to comply with GRCP, Rules 10 and 11.

MR 5.1.27. Payment of Judgment.

If the judgment be against the defendant, or against the plaintiff upon the defendant's counterclaim, such judgment shall be paid forthwith or at the time and upon such terms and conditions as the judge may prescribe.

MR 5.1.28. Proof of Service after Judgment.

The absence of proof of service at the time of any hearing at which the party seeks post-judgment relief with the attendance of a person shall be deemed non-service.

MR 5.1.29. Motion for a New Trial.

The judgment of the court shall be conclusive upon the plaintiff and upon the defendant upon the counterclaim, but if the defendant as to the claim or the plaintiff as to the counterclaim is dissatisfied, he may, within ten (10) days of the entry of the judgment against him, make a motion for a new trial. Upon the filing of such motion for a new trial, the moving party shall pay the same fees as are charged for the filing of an original action in the Superior Court.

MR 5.1.30. Statement on Motion for a New Trial.

The motion for a new trial shall be filed by completing Form 3 following, and filing the same with the Clerk. The Clerk shall thereupon enter the case in the regular docket of the Superior Court.

MR 5.1.31. Trial De Novo.

Upon the payment of the filing fee and the completion and filing of the form set forth above, the right to a new trial is absolute and a trial de novo shall be granted in the Superior Court under

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the rules of the Superior Court excepting that no further pleadings shall be required of either party.

MR 5.1.32. Abstract of Judgment.

If no motion for a new trial is filed and the prevailing party is not paid the amount of the judgment according to the terms and conditions thereof, the Clerk shall, upon application by the prevailing party, certify such judgment in the form set forth in Form 4 following.

MR 5.1.33. Schedule of Fees.

NOTE: Adopted October 24, 2003, effective, December 01, 2003, by Promulgation Order No. PRM03-008, Supreme Court of Guam. Repealed December 22, 2003, by Promulgation Order No. PRM03-012. Reinstated April 30, 2004, effective, July 1, 2004, by Judicial Council Resolution No. JC04-010. [Pursuant to P.L. 27-031, the Supreme Court shall now defer matters pertaining to court fees to the Judicial Council]

(a) Small Claims Schedule of Fees (Based on Claim Amount)

(1) Initial Claim Amount

\$ 500.00	\$20.00
\$ 501.00 - \$ 2,000.00	\$30.00
\$2,001.00 - \$ 3,500.00	\$40.00
\$3,501.00 - \$ 5,000.00	\$50.00
\$5,001.00 - \$ 6,500.00	\$60.00
\$6,501.00 - \$ 8,000.00	\$70.00
\$8,001.00 - \$ 9,500.00	\$80.00
\$9,501.00 - \$10,000.00	\$90.00

(b) Small Claims Schedule of Fees.

(1) Summons	\$ 4.00
(2) Judgment Debtor Examination	\$10.00
(3) Order to Show Cause	\$10.00
(4) Writs	\$15.00
(5) Confession of Judgment	\$15.00
(6) Abstract of Judgment	\$ 5.00
(7) Motion / Joinder for Summary Judgment	\$20.00
(8) Counterclaim (Same as Initial Filing Claim)	
(9) Any Motion Requiring a Hearing, Stipulation or Litigant Requesting to Continue Hearing	\$10.00

(c) Amended Declaration:

- (1) If amended claim amount does not exceed the initial claim amount, no fee is required.

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- (2) If amended claim amount exceeds the initial claim amount, filing fee will be based on the difference of the claim.
- (3) If amendment is to add a defendant(s), fee is assessed as in summons.
- (4) Any other amendments, no fee is required.

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MR 5.1.34. Cost.

The prevailing party in any action under this rule is entitled to costs of the action and also the costs of executing upon a judgment rendered therein.

SMALL CLAIMS COURT FORMS CAN BE FOUND AT TWO LOCATIONS:

- A. Judiciary website - <http://www.guamcourts.org/Small%20Claims/forms.html>; or
- B. Guam Self Represented Litigants website - <http://www.guamselfhelp.org/form.asp>.

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RECORDS RETENTION

MR 6.1. Records Retention.

(a) Definition. For the purpose of this Rule finality means the 31st day after the entry of judgment or order from which an appeal may lie, receipt of the mandate from an appellate court affirming a judgment or order or the 31st day after the court has dismissed an action for failure to prosecute.

(b) Microfilming and Destruction. Records listed below shall be microfilmed at or after finality and the originals destroyed, or, in case of evidence, returned to the owners according to law, in accordance with the disposition table below.

RECORD DESCRIPTION	FILING METHOD	DISPOSITION
CLERK'S OFFICE		
Client Case Files	Numerically	
1. Civil cases		Destroy originals 10 years after finality.
2. Small Claims		Destroy 5 yrs. after filing on microfilm.
3. Juvenile Cases		Records expunged when client becomes 18 yrs old; 10 yrs. hence, destroy in accord with 19 GCA 5124.
4. Domestic		Destroy cases 10 yrs. after finality; provided that cases with minor children not final until 10 years after youngest becomes 18.
5. All others		Destroy 10 yrs. after finality.
Client Cardex File	Alphabetically	Permanent
Docket Sheets	Numerically	Perm., transfer to storage 1 yr. after finality & after micro- filming.
Wills	Numerically	Permanent
Permanent Exhibits	By Subject	
1. Criminal		Transfer to proper law enforcement dept. after final judgment.
2. Civil		Return to submitting party after final judgment.
Decision Files	Chronological	Permanent

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RECORD DESCRIPTION	FILING METHOD	DISPOSITION
Fee Collection	Chronological	Transfer to Reports Fin. Mgmt. Div. after 1 year.
Jury records, diskettes	Numerical/ chronological	Destroy after incl. 5 yrs. as per 7 GCA 22121.
Crim. Appeal transcripts transcripts	Numerical	Destroy 19 yrs. After finality.
Correspondence; subj. files re: admin. & clerk's office w/no historical or legal value.	Subject	Destroy after 3 years.
CALENDAR UNIT		
Master calendar diary	Subject	Destroy after 3 years.
Statistical reports	Subject/ chronological	Destroy after 3 years.
Computer aids/manuals	Subject	Destroy when no longer useful.
COURT REPORTER'S UNIT		
Tapes of court hearings & proceedings-	Subject	Permanent; transfer to storage after 1 yr; destroy after 10 yrs.
Stenographic	Subject	Per.,; trans. notes to storage after 1 year
Grand Jury minute sheets	Numerical	Perm., microfilm
Correspondence; subj. files re: admin. & oper. of court reporting with no historical or legal value.	Subject/ chronological	Destroy after 3 years.

SOURCE: Guam Bar Committee.

COMMENT: The Superior Court has been faced with questions of storage and disposal of records without any law or rule for guidance. This Rule provides necessary guidance, in accordance with applicable law, for the storage and disposal of all the papers accumulated by the court.

CROSS-REFERENCES: Public Law 22-124 enacted 7 GCA '7120, which provided the statutory guidance which was lacking when this Rule was adopted. Section 7120(d) confirmed and continued this Rule under it may be changed in due course.

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RELIEF FROM DISABILITIES

MR 7.1. Relief from Disabilities.

(a) A person who has been formally adjudicated as ineligible pursuant to 18 U.S.C. § 922(g)(4) as defined in 27 C.F.R. § 478.11, may petition to the Superior Court of Guam for relief from the 18 U.S.C. § 922(g)(4) Federal firearms prohibitions.

(b) The Superior Court of Guam must consider the applicant's petition for relief.

(1) In the case of a civil commitment, the Superior Court of Guam shall accept for filing in the Special Proceedings case in which the person was found to have a mental defect, without cost, a Petition for Relief from § 922(g)(4) Disabilities.

(2) In the case of a criminal defendant who has put his mental state at issue, the Superior Court of Guam shall accept for filing in the underlying criminal case or cases in which the criminal defendant put his mental state at issue and a finding of defective mental state was found, without cost, a Petition for Relief from § 922(g)(4) Disabilities.

(c) The court shall accord the petitioner all due process of law, including:

(1) Petitioner shall have an opportunity to submit evidence.

(2) Petitioner shall have the opportunity for a Judge of the Superior Court to review the evidence.

(3) Petitioner shall have a right to a record to be made of the matter, which shall be maintained for review.

(d)(1) The court must receive and consider a proper record of how the mental disability was imposed in the first place, which will be contained in the record of the case in which the disability arose.

(2) This must include but is not limited to

(A) the circumstances regarding the firearm disability;

(B) the Petitioner's record, including at a minimum, applicant's mental Health and criminal history records; and

(C) Petitioner's reputation, which may be developed on the record, at a minimum, through character witness statements, testimony, or other character evidence.

(e) If, at the conclusion of the consideration of the evidence noted above, the court makes the following findings, that

(1) the applicant will not be likely to act in a manner dangerous to public safety, and

(2) granting relief from disability will not be contrary to public interest, the court must grant relief.

(f) The Petitioner is entitled to *de novo* judicial review consistent with the following principles:

(1) applicant may petition the Supreme Court of Guam to review a denial

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(2) the Supreme Court of Guam may but is not required to give deference to the decision of the Superior Court in denying the application.

SOURCE: New Rule MR7.1 adopted pursuant to Promulgation Order No. PRM06-006-12 (July 23, 2010).