

# LOCAL RULES OF THE SUPERIOR COURT OF GUAM<sup>1</sup>

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<sup>1</sup> **SOURCE:** The Judicial Council on Nov. 28, 1989 adopted the Local Rules of the Superior Court of Guam which went into effect on May, 3, 1990 through legislative inaction. These rules were superseded when the Supreme Court of Guam through its authority under 48 U.S.C.A. §1424-1(a)(6) adopted new Local Rules of the Superior Court pursuant to Prom. Order No. 06-006-01 (May 3, 2007). Revised and amended by Prom. Order. No. 06-006-02 (May 31, 2007). Since 2007, any additions and/or amendments to a rule are reflected in the Source annotation for that rule.

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#### **APPENDIX OF FORMS**

**2022 COMPILER NOTE:** Hyperlinks to online sources have been updated.

#### **Miscellaneous Rule 1.1 - Appointment of Counsel for Indigent Defendants**

- A. Financial Declaration  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)
- B. Private Attorney Panel  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)
- C. Private Attorney Panel Application  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)

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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-Claims-Court/Small-Claims-Court.html>; or
- B. Guam Self Represented Litigants website - <http://www.guamselfhelp.org/form.asp>.



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

## **GENERAL RULES**

(Promulgation Order No. 06-006-02, Eff. June 1, 2007)



**LOCAL RULES OF THE  
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**GENERAL RULES**

**Effective June 1, 2007**

**Rule**

- GR 1.1. Title; Effective Date; Scope.
  - (a) Title.
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**GENERAL RULES (“GR”)**

**GR 1.1. Title; Effective Date; Scope.**

(a) Title. These are the Local Rules of the Superior Court of Guam. They may be cited as “GR” (General Rules).

(b) Effective Date; Transitional Provision. These rules as adopted by Promulgation Order No. 06-006-02 apply to all actions, cases and proceedings brought after said Promulgation Order takes effect and to all actions, cases and proceedings commenced prior to the effective date hereof and still pending, except to the extent that application of the Rules to those pending actions, cases and proceedings would not be feasible, or would work injustice, in which event the prior valid Guam Rule of Court shall apply. Where justice requires, a judge may order that an action or proceeding pending before the Court prior to that date be governed by the prior practice of the Court.

(c) Scope of the Rules: Construction. These Rules supplement the Guam Rules of Civil Procedure and the Guam Rules of Criminal Procedure. These Rules shall be construed so as to be consistent with applicable statutes to promote the just, efficient and economical determination of every action and proceeding. The provisions of the General Rules and the provisions of Civil Rules 7.1 of the Local Rules of the Superior Court of Guam shall apply to all actions and proceedings, including civil, tax, and criminal, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

(d) Definitions.

(1) The word “Court” refers to the Superior Court of Guam, and not to any particular judge of the Court.

(2) The word “judge” refers to any Judge or any designated or pro tempore judge exercising jurisdiction with respect to a particular action or proceeding in said court to whom such action or proceeding has been assigned for purposes relevant to the context in which such reference occurs.

(3) The word “clerk” means the Clerk for the Superior Court of Guam and deputy clerks, unless the context otherwise requires.

**SOURCE:** Adopted by Prom. Order No. PRM 06-006-01 (May 3, 2007). Revised and amended by Prom. Order No. 06-006-02 (May 31, 2007), and Prom. Order No. PRM 06-006-18 (July 18, 2022).

**2022 COMPILER NOTE:** Pursuant to amendments in Prom. Order No. PRM 06-006-18 (July 18, 2022), the reference to CVR 7.1.1 in subsection (c) was removed.

**GR 2.1. Sanctions and Penalties for Noncompliance.**

The violation of or failure to conform to any of these General Rules, the Guam Rules of Civil Procedure, or the Local Rules of the Superior Court of Guam – Civil Rules shall subject the offending party or counsel to such penalties, including monetary sanctions and/or the imposition of costs and attorney’s fees to opposing counsel, as the Court may deem appropriate under the circumstances.

**GR 3.1. Stipulations.**

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(a) Except as otherwise provided for in this rule, stipulations will be recognized as binding only when made in open court or filed in the case.

(b) Any stipulation requiring the judge's signature shall contain the words "Approved and So Ordered," and a blank line for the date and a designated signature line for the Judge. The Judge's signature line must appear on the same page as the signature of at least one of the attorneys entering into the stipulation.

(c) Any stipulation, which extends time or provides for a continuance shall contain the reason for the change of date; provided however that this rule shall not be applicable to a written stipulation or other written agreement entered into between the parties regarding an answer or reply to any pleading or to any responses to any discovery requests other than a date set in a court order.

**GR 4.1. Citation of Authority.**

(a) Parties shall provide this Court with a copy of any case or other authority which they cite or rely upon and which is unavailable in either the Guam Law Library or from a generally recognized legal research database.

(b) All citations shall be in the form found in the most recent edition of A Uniform System of Citation identifying the court cited, and enabling both the Court and opposing counsel to locate the cited work.

**GR 5.1. Format and Filing.**

(a) Form; Copy. All papers presented for filing shall be on white opaque paper of good quality, eight and one-half inches by eleven inches (8 ½ x 11) in size, and shall be flat, unfolded (except where necessary for the presentation of exhibits), without back or cover and shall comply with all other applicable provisions of these Rules. All pages shall be numbered consecutively at the bottom and firmly bound at the upper left-hand corner. In addition to the original, a legible conformed copy of all documents, except certificates of service, summons, subpoenas and notices of depositions, shall be filed for the judge's use. Matter shall be presented by typewriting, printing, or other clearly legible reproduction process, and shall appear on one side of each sheet only. All papers shall be double-spaced with a minimum of 12 point font, except for the identification of counsel, title of the case, footnotes, quotations, and exhibits.

(b) Format. The title of the Court shall be centered and commence not less than three (3) inches from the top of the page.

(c) Title Page. The first page of every document shall contain the following information, which may be single spaced:

(1) The name, address and telephone number of the attorney appearing for a party in an action or individual appearing pro se and for whom the attorney appears shall be printed or typewritten in the upper left-hand corner. The space to the right of the page's center shall be reserved for the clerk's filing stamp.

(2) Below and to the left of the title of the Court, the title of the action or proceeding shall be inserted. In a complaint, the title of the proceeding shall contain the names of all parties and in the event that the parties are too numerous for all to be named on the first page, the

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names of the parties may be carried onto successive page(s). In all papers other than a complaint, the title of the proceeding may be appropriately abbreviated.

(3) In the space to the right of the title of the action, the following shall appear:

(A) the file number of the action or proceeding;

(B) a designation of the action or proceeding as civil, criminal, domestic, probate, juvenile, special proceedings, land registration, adoption, child support, protective order;

(C) a brief description of the nature of the document; and

(D) mention of any notice of motion or affidavits or memorandum in support.

(4) Cover Sheets. All documents initiating any proceedings shall be accompanied by the appropriate cover sheet, which shall be fully completed and executed. Cover sheets are available upon request at the Clerk's Office. Persons in the custody of state, local, commonwealth or federal institutions are exempt from the requirements of this subdivision.

(d) Typed Names Below Signature Lines. Names shall be typed below signatures on all pleadings and documents filed.

**GR 6.1. Continuances.**

Except as otherwise provided for in these Rules, no continuance shall be granted merely on the stipulation of the parties. If the Court is satisfied that counsel are preparing the case with diligence and additional time is required to comply with these Rules, the parties may move the Court to extend the dates for the obligations imposed under these Rules, upon submission of a timely stipulated motion signed by all counsel setting forth the reasons for the requested continuance. No continuance will be granted unless the stipulation has been lodged before the date upon which the act was to have been completed under this Rule.

**GR 7.1. Clerk of Court.**

(a) Location and Hours. The Office of the Clerk of this Court shall be located at Guam Judicial Center, 120 West O'Brien Drive, in Hagåtña, Guam. The mailing address is 120 West O'Brien Drive, Hagåtña, Guam 96910-5174. The regular hours shall be from 8:00 a.m. to 5:00 p.m. each day except Saturdays, Sundays, legal holidays and other days or at times so ordered by the Court. Nothing in this Rule precludes the filing of papers as provided in Rule 77, Guam Rules of Civil Procedure.

(b) Court Calendar. Daily before 5:00 p.m., the clerk shall post on the bulletin board of the Superior Court, copies of the court's calendar for the following day. The Clerk shall cause the calendar to appear on the website daily. The website address is [www.guamcourts.org](http://www.guamcourts.org).

**GR 8.1. Correspondence and Communications with the Court.**

(a) No one shall directly or indirectly communicate with a judge or judicial officer, the Judge's chamber personnel (including law clerk), the clerk of court, or the clerk's deputies and assistants about any matter pending with the court except:

(1) In open court; or

(2) With the consent of all other counsel in such matter; or

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- (3) In the presence of all other counsel in such matter; or
  - (4) By means of petitions, motions or other papers provided for or allowed by rule of law;  
or
  - (5) Matters of calendaring.
- (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 (even when other counsel receive copies of such letter) is expressly prohibited.

**GR 9.1. Files; Custody and Withdrawal.**

All files of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of a judge and a proper receipt signed by the person obtaining the record or paper. No such order will be made except in extraordinary circumstances.

**GR 10.1. Pretrial and Trial Publicity.**

- (a) The use of cameras in a courtroom shall be governed by the provisions of 8 GCA § 1.23 and the regulations adopted pursuant to that section.
- (b) Publicity. The Court personnel, including but not limited to marshals, clerks and deputies, law clerks, secretaries, messengers, interpreters and court reporters, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the Court without specific authorization of the Court.
- (c) Officers of this Court. In making statements to the media, the Officers of the Court are bound by the Rules of Professional Conduct as amended from time to time.

**GR 11.1. Referees.**

The term *judge* when used in these rules also includes referee.

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CIVIL RULES**

(Promulgation Order No. 06-006-02, Eff. June 1, 2007)

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**SOURCE:** The Judicial Council on Nov. 28, 1989 adopted the Local Rules of the Superior Court of Guam which went into effect on May, 3, 1990 through legislative inaction. The Supreme Court of Guam through its authority under 48 U.S.C.A. §1424-1(a)(6) repealed the pre-existing Local Rules of the Superior Court and adopted new Local Rules of the Superior Court pursuant to Prom. Order No. 06-006-01 (May 3, 2007). Revised and amended by Prom. Order No. 06-006-002 (May 31, 2007), effective June 1, 2007.

**CIVIL RULES**

- CVR 1.1. Scope.
- CVR 4.1. Summons & Complaint.
- CVR 5.1. Service and Filing of Other Documents.
- CVR 5.2. Representation of Service.
- CVR 6.1. Time Computation.
- CVR 7.1. Motion Practice.
- CVR 10.1. Jurisdiction.
- CVR 10.2. Format and Filing.
- CVR 15.1. Amended Pleadings.
- CVR 16.1. Scheduling Order and Discovery Plan.
- CVR 16.2. Meeting of Counsel and Preparation of Proposed Scheduling Order and Discovery Plan and Order.
- CVR 16.3. Failure to Cooperate - Sanctions.
- CVR 16.4. Filing of Motions Does Not Excuse Counsel from the Requirements of this Rule.
- CVR 16.5. Extension of Deadlines Fixed in Scheduling Order.
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- CVR 66.1. Receivers.

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- CVR 67.1. Deposit in Court.
- CVR 77.1. Orders Grantable by Clerk.
- CVR 77.2. Clerk of Court.
- CVR 79.1. Custody and Disposition of Exhibits and Transcripts.
- CVR 83.1. Rules by Courts.

**CVR 1.1. Scope.**

The provisions of the Civil Rules (hereinafter “CVR”) shall apply to all civil actions, domestic actions, special proceedings, and other proceedings not including criminal and juvenile, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

**CVR 4.1. Summons and Complaint.**

The issuance of a summons and the service of a summons and complaint are governed by Rule (4) of the Guam Rules of Civil Procedure.

**CVR 5.1. Service and Filing of Other Documents Subsequent to Complaint.**

All documents after the complaint required to be served and filed pursuant to Rule 5 of the Guam Rules of Civil Procedure shall be

- (a) served on all parties to the action in accordance with GRCP Rule 5; and
- (b) filed with the Court either before service or within a reasonable time after service.

**CVR 5.2. Representation of Service.**

When a member of the Bar of this Court applies to the clerk for the entry of a default, or of a default judgment, or for the certification of the record on appeal, or applies to the Court for an order or judgment, such application is a representation that due service has been made of all pleadings or papers required by the Guam Rules of Civil Procedure to be made a condition to the relief sought, and for which no acknowledgment or affidavit of service is on file. No other proof of service is required unless an adverse party raises a question of due notice.

**CVR 6.1. Time Computation.**

Guam Rule of Civil Procedure 6(a) controls the manner for computing any period of time prescribed or allowed by these Rules.

**CVR 7.1. Motion Practice.**

(a) Applicability. The provisions of this Rule shall apply to motions, applications, petitions, orders to show cause, and all other proceedings except a trial on the merits, matters arising in civil cases assigned to the Master Calendar, and applications for a temporary restraining order, unless otherwise ordered by the court or provided by statute, the Guam Rules of Civil Procedure or the Local Rules of the Superior Court of Guam.

(b) Service of Motion and Accompanying Papers. Every motion shall be presented in writing. The motion papers shall be served on each of the parties in accordance with Guam Rule of Civil Procedure Rule 5.

(c) Moving Papers. There shall be filed and served:

- (1) A Notice of Motion and Motion using CVR 7.1 FORM 1;



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(2) a memorandum in support thereof containing the points and authorities upon which the moving party relies, including citations; and

(3) any affidavits or declarations under penalty of perjury sufficient to support any material factual contentions permitted by the Guam Rules of Civil Procedure.

**(d) Opposition and Reply.**

(1) The opposing party may within twenty-eight (28) days of the filing of the motion, file with the clerk and serve upon all parties an opposition containing:

(A) a memorandum in support thereof containing the points and authorities upon which the opposing party relies, including citations;

(B) if desired, the evidence upon which the opposing party relies; and

(C) any affidavits or declarations under penalty of perjury permitted by the Guam Rules of Civil Procedure.

(2) The moving party may, within forty-two (42) days from the filing of the motion, file and serve a reply to the opposing party's opposition.

(3) The parties may, by stipulation filed with the court and without further order of the court, extend the time for filing an opposition by not more than seven (7) days and/or a reply, if any, by not more than seven (7) days.

**(e) Oral Argument.**

(1) Oral Argument Not Automatic. Oral argument may be denied in the discretion of the judge, except where oral argument is required by statute or the Guam Rules of Civil Procedure.

(2) Any party may, but is not required to, either request oral argument or submit a statement that the party represents that oral argument is not necessary by either indicating such on the notice of motion submitted pursuant to CVR 7.1(c)(1) or by filing CVR 7.1 FORM 2, "Statement Re: Oral Argument on Pending Motion" making the request or stating that oral argument is not necessary, and specifying the motion on which oral argument is sought, or waived, within seven (7) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

(A) A request for oral argument which includes an agreed upon recommended hearing date is not subject to withdrawal except by stipulation of all parties.

(B) In the request for oral argument, the parties may, but are not required to, designate a date for oral argument. The court shall not be bound by this date in scheduling a date for oral argument, if it decides that oral argument shall be had.

(C) The court will set the date and time for argument or determine that oral argument is not necessary and will notify the parties using CVR 7.1 FORM 3. If the date and time for oral argument are changed by the court, the court shall notify the parties using CVR 7.1 FORM 3.

(D) The court, in the exercise of its discretion, regardless of whether oral argument has been requested or whether statements have been submitted suggesting that oral argument may not be necessary, may:

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- (i) order oral argument; or
- (ii) determine that argument is unnecessary.

(3) A party seeking oral argument that does not file a timely Rule 7.1(e)(2) Statement requesting oral argument shall be deemed to have waived any request for oral argument. The court may, in its discretion, consider an untimely Rule 7.1(e)(2) Statement requesting oral argument upon a showing of good cause.

(4) The filing of a CVR 7.1 FORM 2 Statement Re: Oral Argument for Pending Motion is entirely discretionary on the part of the parties and a motion shall not be granted, denied, dismissed or sanctions issued on the basis of the failure of a party or parties to file the Statement.

(5) Court's Cancellation of Oral Argument. Any oral argument may be taken off calendar by Order of the court, in the discretion of the court, and a decision rendered on the basis of the written materials on file.

(6) Motion Under Advisement. For time standard purposes pursuant to Administrative Rule 06-001, a motion will be treated as under advisement after:

(A) the time for filing an opposition has elapsed, no opposition has been filed, and the court has not scheduled the matter for oral argument;

(B) an opposition has been filed, a reply has been filed or the time for filing a reply has elapsed, no request for oral argument has been made within the time allowed, and the court has not scheduled the matter for oral argument within thirty (30) days;

(C) an opposition has been filed, a reply has been filed or the time for filing a reply has elapsed, a request for oral argument has been made and such request has been denied, or not acted on by the court within thirty (30) days;

(D) oral argument has concluded;

(E) the judge has indicated through the filing and service of CVR 7.1 FORM 3 that no oral argument will be held on the motion; or

(F) 120 days after the filing of the motion, if such date is earlier than the periods set forth in CVR 7.1(e)(6)(A)-(E).

(f) Failure to File Required Papers. Papers not timely filed by a party including any memoranda or other papers required to be filed under this Rule shall not be considered without leave of court.

(g) Length of Briefs and Memoranda. Each party may submit briefs or memoranda in support of or in opposition to any pending motion which shall not exceed a total of twenty (20) pages in length without leave of court to file additional pages. The moving party may submit a reply brief or memoranda not in excess of ten (10) pages without leave of court. Any disclosure statement, table of contents, table of authorities, addendum, declarations or affidavits, or exhibits, do not count toward the page limitation. All briefs and memoranda in excess of twenty (20) pages for which leave to file has been granted shall contain a table of authorities cited and table of contents.

(h) Advance Notice of Withdrawal or Non-Opposition; Continuances.

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(1) Any moving party who does not intend to press the motion or who intends to withdraw the motion, or any opposing party who does not intend to oppose the motion, shall, not later than seven (7) days after the date the last paper on that motion is filed, or the time for filing has elapsed, file and serve a notice of withdrawal or non-opposition.

(2) A party who intends to request for a continuance of a hearing set by the court shall, not later than five (5) working days preceding the oral argument date, file and serve a request for continuance.

(3) Absent good cause shown, a deadline fixed by or pursuant to these rules will not be extended.

(i) Motion for Reconsideration. A motion for reconsideration of the decision on any motion may be made only on the grounds of

(1) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

(j) Applications for Orders Shortening Time.

(1) When it is necessary for a matter to be heard earlier than the time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure, the party who desires to shorten time shall file a separate application for an order shortening time using CVR 7.1 FORM 4 “Application to Shorten Time; Order.”

(2) Applications for an order to shorten time shall include the following information:

(A) The reasons why it is necessary to shorten time;

(B) That the opposing parties have been given notice of the application to shorten time, or if there is no opposing party, that all notices have been given as required by law; and

(C) Whether the opposing (or interested) parties agree to shorten time on the matter, or the reasons why an agreement on the application to shorten time could not be obtained.

(3) A separate CVR 7.1 Form 1 “Notice of Motion and Motion” is not required to accompany the CVR 7.1 Form 4 “Application to Shorten Time; Order.” However, a CVR 7.1 Form 1 “Notice of Motion and Motion” is required to accompany the motion on which the party desires time to be shortened.

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(4) If the Court grants the application to shorten time and sets a shortened briefing schedule, such briefing schedule supersedes any schedule listed in the party's CVR 7.1 FORM 1 "Notice of Motion and Motion."

(5) When the application is made ex parte, the moving party shall file its application using the CVR 7.1 FORM 5 "Application for Ex Parte Relief; Order."

(6) Pursuant to CVR 7.1(j)(2), if the party fails to provide either notice to the opposing/interested parties or sufficient justification for shortening time, the judge, in his or her discretion, may deny the application to shorten time and may schedule the underlying matter for a hearing as provided in these Civil Rules of Court or the Guam Rules of Civil Procedure.

(A) Applications for orders shortening time shall be granted or denied by the judge as soon as reasonably practicable under the circumstances.

(B) The judge need not hold a hearing on the application to shorten time.

(k) Ex Parte Applications.

(1) The following rules shall apply to all applications seeking ex parte relief based on the party's personal knowledge of a lawful basis for granting relief ex parte, not including Family Violence Orders of Protection, governed by Miscellaneous Rules 2.1 through 2.1.10, except where those Rules or any Civil Rules of Court explicitly provide otherwise.

(2) All applications for ex parte relief shall be in writing and shall be filed using a CVR 7.1 FORM 5 "Application for Ex Parte Relief; Order" which shall include, or attach, the following:

(A) The case caption and the relief requested.

(B) A memorandum in support of the underlying relief requested containing the points and authorities upon which the moving party relies, including citations.

(C) A statement regarding the reasons ex parte relief is necessary which explains that, for reasons specified, the applicant should not be required to inform the opposing party, or if there is no opposing party, that any other notice as required by law should be waived.

(D) A statement indicating whether or not the party believes it is necessary for the matter to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the party believes it is necessary for the matter to be heard on an expedited basis, the party shall state the reasons therefore.

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(E) A proposed order granting the underlying relief requested. The proposed order shall bear the signature of the attorney presenting it preceded by the words, “presented by” on the left side of the last page.

(3) A separate CVR 7.1 Form 1 “Notice of Motion and Motion” is not required to accompany the CVR 7.1 Form 5 “Application for Ex Parte Relief; Order.”

(4) All applications for ex parte relief shall be heard by the judge assigned to the case unless the judge is unavailable.

(A) Pursuant to CVR 7.1(k)(2)(C), if the moving party fails to provide sufficient justification to support waiver of the notice to the opposing party, or if there is no opposing party, any other notice as required by law, the judge, in his or her discretion, may decline to hear the matter ex parte.

(B) If the judge declines to hear the matter ex parte, the Court may schedule the underlying matter for a hearing. In such case, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.

(C) The judge, in his or her discretion, may decline to hear the matter on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure. If the judge declines to hear the matter on an expedited basis and has declined to hear the matter ex parte, the moving party shall serve the notice of hearing on the opposing party, or if there is no opposing party, shall provide any other notice as required by law.

(I) Sanctions. The court need not consider motions, oppositions to motions or briefs or memoranda that do not comply with this Rule, and the court shall issue an order stating the grounds on which it deems the filing noncompliant if it so determines. The presentation to the court of frivolous motions or oppositions to motions or the failure to comply fully with this Rule subjects the offender at the discretion of the court to the sanctions of General Rule 2.1.

**SOURCE:** Adopted Nov. 28, 1989 by the Judicial Council which became effective on May, 3, 1990 through legislative inaction. The Supreme Court of Guam through its authority under 48 U.S.C.A. §1424-1(a)(6) adopted new Local Rules of the Superior Court pursuant to Prom. Order No. 06-006-01 (May 3, 2007), revised and amended by Prom. Order No. 06-006-002 (May 31, 2007). Amended by Prom. Order No. 06-006-14 (Feb. 26, 2013), effective Mar. 1, 2013, Prom Order No. 06-006-18 (July 18, 2022), effective Aug. 1, 2022, and Prom Order No. 06-006-22 (August 31, 2022).

**2022 COMPILER NOTE:** According to the Subcommittee on Rules of Civil Procedure: 1) the amendment of subsection (j) and adoption of CVR Form 4 clarifies the necessary procedural steps to file an application for an order shortening time in circumstances that do not require an ex parte motion; and 2) the adoption of new language in subsection (k) and CVR Form 5 clarifies the procedure an applicant must comply with in filing an ex parte motion.

**CVR 7.1.1. Ex Parte Applications.**

[Repealed.]

**SOURCE:** Adopted by Prom. Order No. PRM 06-006-01 (May 3, 2007). Revised and amended by Prom.

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Order. No. 06-006-02 (May 31, 2007). Repealed by Prom. Order No. PRM 06-06-18 (July 18, 2022).

**2022 COMPILER NOTE:** The adoption of CVR 7.1(k) pursuant to Prom. Order No. PRM 06-06-18 (July 18, 2022) effectively repealed this rule, which had previously stated:

All applications for ex parte orders shall be heard by the judge assigned to the case unless the judge is unavailable. All other applications for ex parte orders shall be filed by 10:00 AM to be heard at 1:30 PM by the judge designated by the presiding judge as the ex parte judge, unless the ex parte judge in his or her discretion decides otherwise. Applications for ex parte orders shall be accompanied by a memorandum containing the name of counsel for the opposing party, if known, the reasons for the seeking of an ex parte order, and points and authorities in support thereof. There shall also be attached, within a separate cover, the proposed ex parte order. The proposed order shall bear the signature of the attorney presenting it preceded by the words, “presented by” on the left side of the last page.

(a) Declaration of Counsel It shall be the duty of the attorney so applying to file a declaration containing the following:

(1) that a good faith effort has been made to advise counsel for all other parties, if known, or the parties themselves, if counsel is not known, of the date, time and substance of the proposed ex parte application or the reasons supporting the claim that notice should not be required, and

(2) the efforts to contact other counsel or the parties and whether any other counsel or party, after such advice, opposes the application or has requested to be present when the application is presented to the court, and if not filed in accordance with this rule, reasons why the ex parte application has not been timely filed.

(b) Waiver of Notice. If the judge to whom the application is made finds that the interests of justice require that the ex parte application be heard without notice, the judge may waive the notice requirement of subpart (a)(1) of this section.

**CVR 10.1. Jurisdiction.**

Each complaint, petition, counter-claim and cross-claim shall state in a separate paragraph entitled “jurisdiction” the statutory or other basis for jurisdiction and the facts supporting jurisdiction.

**CVR 10.2. Format and Filing.**

See General Rule 5.1.

**CVR 15.1. Amended Pleadings.**

Any party filing or moving to file an amended pleading shall reproduce the entire pleading as amended and may not incorporate any part of a prior pleading by reference except with leave of court.

**CVR 16.1. Scheduling Order and Discovery Plan.**

(a) Applicability. Unless otherwise ordered, this Rule is applicable to all civil cases pending in the Superior Court of Guam except for the cases exempted by CVR 16.1(b). Counsel are expected to meet and confer as required by Rule 26(f) of the Guam Rules of Civil Procedure and CVR 16.2, prior to commencing discovery, unless the Court orders otherwise. Counsel are expected to complete pretrial discovery in the shortest time reasonably possible with the least expense.

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(b) Exempt Actions.

(1) The following cases are exempt from compliance with these procedures unless otherwise ordered by the Court:

(A) an action for review on an administrative record;

(B) a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;

(C) an action brought without counsel by a person in custody of the United States, a state, territory or a subdivision thereof;

(D) an action to enforce or quash an administrative summons or subpoena;

(E) a proceeding ancillary to proceedings in other courts;

(F) an action to enforce an arbitration award;

(G) a petition for adoption or termination of parental rights;

(H) a proceeding for adult commitment for mental health services;

(I) a petition for annulment;

(J) an action for child support;

(K) an action for collection of money which is uncontested or a default;

(L) an action for divorce uncontested or a default;

(M) a petition for guardian ad litem/settlement for juvenile;

(N) a petition for guardianship of an adult;

(O) a petition for guardianship of a juvenile;

(P) a petition for juvenile (PINS, BC, Drug Court, Delinquency);

(Q) an order to show cause for a name change;

(R) a petition for probate;

(S) an action for a protective order or protective injunction; and

(T) proceedings for writs.

(2) Notwithstanding the exemptions set forth herein, a party may request the Court to exempt them from the requirements of this Rule under appropriate circumstances or for good cause shown.

(c) Meeting of Parties, Proposed Scheduling Order, Proposed Discovery Plan and Order, Status Report and Scheduling Conference.

(1) Meeting of Parties. All parties are directed to confer in accordance with CVR 16.2 and Rule 26(f) of the Guam Rules of Civil Procedure and provide the Court with a Scheduling Order and separate Discovery Plan and Order within seventy-five (75) days of the date of the filing of the complaint. The Scheduling Order and Discovery Plan and Order shall be in substantially the same form as CVR 16.1 Forms 2 and 3.

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(2) Initial Communication of Parties. It is the responsibility of plaintiff's counsel to initiate the communication necessary to prepare the Scheduling Order and Discovery Plan and Order. In the event that the plaintiff is proceeding pro se, the defendant shall contact the plaintiff and arrange a meeting to comply with this Rule in the appropriate time frame.

(3) Time Limits - Scheduling Notice, Conference, Proposed Scheduling Order, and Proposed Discovery Plan and Order. The Clerk of Court will schedule a Scheduling Conference to be held within ninety (90) days after the complaint is filed. The clerk shall serve, no later than forty (40) days after the complaint has been filed, a Scheduling Notice in the form set forth in CVR 16.1 Form 1 setting forth:

(A) the date on which the Scheduling Order and Discovery Plan and Order shall be filed by the parties, and

(B) the date for the Scheduling Conference.

It is the responsibility of plaintiff's counsel or the pro se plaintiff to serve a copy of the clerk's Scheduling Notice on all parties who may appear after the clerk's issuance of the Notice of Scheduling Conference.

(4) Contents of Proposed Scheduling Order. The Scheduling Order to be submitted by the parties shall contain the following information:

(A) The nature of the case;

(B) The posture of the case including hearings, motions and discovery;

(C) A statement indicating whether the parties agree or disagree with the contents of the Discovery Plan and Order as provided in CVR 16.1 Form 3. If the parties do not agree to the contents of the Discovery Plan and Order:

(i) any modifications of the time for disclosures under Rules 26(a) and 26(e)(1) of the Guam Rules of Civil Procedure;

(ii) a description and schedule of all pretrial discovery each party intends to initiate prior to the close of discovery;

(D) The following dates:

(i) a proposed date limiting the joinder of parties and claims;

(ii) a proposed date limiting the filing of motions to amend the pleadings;

(iii) the assigned date for the required Scheduling Conference with the Judge;

(iv) discovery cut-off dates (defined as the last day to file responses to discovery and to complete depositions);

(v) discovery and dispositive motion cut-off dates (the last day to file motions);

(vi) pretrial conference dates;

(vii) dates for filing the trial brief, exhibit lists, and witness lists; and

(viii) the trial date, and in no event shall the trial date be later than fifteen (15) months after the complaint is filed, unless the Court otherwise allows;



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(E) That counsel have each filed MR 4.1 Form B1 Attorney Certification regarding court-referred mediation as required by Miscellaneous Rule 4.1.6 of the Local Rules of the Superior Court of Guam;

(F) Whether the trial is jury or non-jury;

(G) The number of trial days required;

(H) The names of trial counsel;

(I) Whether the parties desire to submit the case early in the litigation to a settlement conference or engage in alternative dispute resolution;

(J) Suggestions for shortening trial; and

(K) Any other issues affecting the status or management of the case.

(d) Contents of Proposed Discovery Plan and Order. The Discovery Plan shall contain a description, including a schedule, of all pretrial discovery each party intends to initiate prior to the close of discovery, including time and length of discoverable events. The plan shall conform to the obligation to limit discovery under Rule 26(b) of the Guam Rules of Civil Procedure and shall address all matters set forth in Rule 26(f) of the Guam Rules of Civil Procedure.

(e) Non-Appearance of Defendants - Status Report. If on the due date of the Scheduling Order and Discovery Plan and Order, the defendant(s) or respondent(s) have been served and no answer or appearance has been filed, or if service on the defendants has not been effected, counsel for the plaintiff or the pro se plaintiff shall file an independent status report setting forth the above information required in subsections A through K to the extent possible. The report shall also include the current status of the non-appearing parties.

In addition, if service has not been effected, plaintiff's counsel or the pro se plaintiff must set forth the reasons why service has not been effected and what attempts at service have been made.

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

**CVR 16.2. Meeting of Counsel and Preparation of Proposed Scheduling Order and Proposed Discovery Plan and Order.**

(a) Meeting of Counsel or Pro Se Litigants. Within fifteen (15) days after the receipt of the clerk's Scheduling Notice, but no later than sixty (60) days after the filing of the complaint, counsel of record and all pro se litigants shall meet in person for the purposes set forth below:

(1) Documents. To exchange all documents then reasonably available to a party which are contemplated to be used in support of the allegations of the pleading filed by the party. Documents later shown to be reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.

(2) Discovery. To exchange preliminary schedules of discovery; to arrange for the disclosures required by CVR 26.2 and Rule 26(a) of the Guam Rules of Civil Procedure; and to discuss all items set forth in Rule 26(f) of the Guam Rules of Civil Procedure.

(3) Other Evidence. To exchange any other evidence then reasonably available to a party to obviate the filing of unnecessary discovery motions.

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(4) List of Witnesses. To exchange a list of witnesses then known to have knowledge of the facts supporting the material allegations of the pleading filed by the party. The parties will then be under a continuing obligation to advise the opposing party of other witnesses as they may become known.

(5) Settlement. To discuss the timing and appropriateness of mediation or other forms of alternative dispute resolution.

(6) Complicated Cases. To discuss whether the action is sufficiently complicated so that special procedures need to be adopted to facilitate the management of this action.

(7) Proposed Scheduling Order. To discuss the contents and preparation of the Scheduling Order.

(8) Proposed Discovery Plan and Order. To discuss the contents and preparation of the Discovery Plan.

(b) Preparation of the Proposed Scheduling Order. After the meeting of counsel referred to in CVR 16.2(a) above, plaintiff's counsel, or if plaintiff is pro se, the plaintiff, shall prepare a draft of the Scheduling Order required by this Rule. Plaintiff's draft shall be presented to all parties for amendments and modifications. If all parties do not agree on a Scheduling Order, each party shall sign and file, on the date that the Scheduling Order is due, a statement re: Disagreement of Scheduling Order, stating that the parties have been unable to agree despite good faith efforts to do so. To this statement shall be attached the party's Scheduling Order. If a party disagrees but does not attach a Scheduling Order, that party will be considered to have not taken a position with respect to the dates and matters contained therein.

(c) Preparation of the Proposed Discovery Plan and Order. After the meeting of counsel referred to in CVR 16.2(a) above, the attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court a Discovery Plan and Order required by this Rule. If all parties do not agree on a Discovery Plan and Order, each party shall sign and file, on the date that the Discovery Plan and Order is due, a statement re: Disagreement of Discovery Plan and Order stating that the parties have been unable to agree despite good faith efforts to do so. To this statement shall be attached the party's Discovery Plan and Order. If a party disagrees but does not attach a Discovery Plan and Order, that party will be considered to have not taken a position with respect to the dates and matters contained therein. (d) Scheduling Conference and Order. All matters required to be taken care of by the Scheduling Order and the Discovery Plan and Order will be addressed at the Scheduling Conference, after which the final Scheduling Order and Discovery Plan and Order will be entered.

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

**CVR 16.3. Failure to Cooperate - Sanctions.**

The failure of a party or a party's counsel to participate in good faith in the framing of the Scheduling Order and the Discovery Plan and Order required by this Rule, and Rules 16(b) and 26(f) of the Guam Rules of Civil Procedure, may result in the imposition of appropriate sanctions. *See* GR 2.1; Guam R. Civ. P. 16(f), 37(g).

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

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**CVR 16.4. Filing of Motions Does Not Excuse Counsel from the Requirements of this Rule.**

Absent an order of the court to the contrary, the filing of a motion, including a discovery motion, motion for summary judgment, or a motion to dismiss, will not excuse the parties from complying with this Rule and any Scheduling Order entered in the case.

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

**CVR 16.5. Extension of Deadlines Fixed in Scheduling Order.**

A deadline established by a Scheduling Order may be extended only upon a good cause finding by the Court. The deadline for completion of all discovery will not be extended unless there has been active discovery. Delayed discovery will not justify an extension of discovery deadlines. A motion to extend the deadline in a Scheduling Order must demonstrate a specific need for the requested extension, and should be accompanied by a detailed proposed amendment to the previously entered Scheduling Order. The date for completion of discovery will be extended only if the remaining discovery is specifically described and scheduled, e.g., the names of each remaining deponent and the date, time and place of each remaining deposition. The Court, in its discretion, may order that the client consent in writing to any continuance proposed by counsel.

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

**CVR 16.6. Settlement Conference.**

(a) Settlement Judge. At any time after an action or proceeding has been filed, any party may file a request for a settlement conference. Upon the filing of the request, the Clerk of Court will notify the parties of the name of the judge assigned. Such conference may be held before the judge trying the case, another judge, or a *pro tempore* judge. If the judge trying the case agrees to conduct the conference, a written stipulation by all counsel shall be filed prior to the settlement conference. Unless otherwise ordered by the judge, the settlement conference shall be held no later than twenty-eight (28) days before trial. The parties, and the attorneys primarily responsible for the litigation, are required to attend and be prepared to provide the following:

- (1) 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;
- (2) Identify the discovery or motions that promise to contribute most to equipping the parties for meaningful settlement negotiations;
- (3) Except to the extent prohibited by applicable laws of privilege, describe the history and current status of any settlement negotiations;
- (4) Provide additional information about any needs, interests or other considerations not described elsewhere in the statement that might be pertinent to settlement; and
- (5) Include copies of documents likely to make settlement more productive or to materially advance settlement prospects.
- (6) Each party attending shall have full decision making authority. The judge conducting the settlement conference may excuse a party from personally appearing based on good cause, but the party may be required to participate by telecommunication at the party's expense. For

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a meaningful settlement conference to occur, all attorneys and parties must participate in good faith. The failure of any person to comply with these rules, appear at, or participate in a settlement conference, unless good cause is shown for any such failure, may result in the trial judge imposing appropriate sanctions in his/her discretion upon motion of the opposing party. Sanctions may include requiring the party, or the attorney representing the party, or both, to pay all reasonable costs, including attorney's fees, of the party appearing for the scheduled session(s).

(7) Settlement conferences shall, in all respects, be privileged proceedings and not reported or recorded. No party is bound by any position taken during a settlement conference unless a settlement is reached. When a settlement has been reached, the judge may, and at the request of any party shall, cause the settlement to be made a matter of record.

(8) If the parties have reached an entire or partial agreement, or have agreed to other matters that promote the prompt and fair disposition of the case, a record of settlement shall be signed and filed by the parties and their attorneys, or placed on the record in open court. If no agreement is reached, the judge shall file a notice of termination of the settlement conference. Unless otherwise ordered by the Court, the filing of a request for judicial settlement conference shall not extend or suspend the dates set in the scheduling order. Judicial time standards shall be tolled during the periods of a conference.

(b) Mediation. At any time after the filing of the Scheduling Order and Discovery Plan the parties may be ordered into mediation under Local Rules of Court by the judge, or they may agree to stipulate to mediation services.

**SOURCE:** Adopted by Promulgation Order Nos. 06-006-01 (May 3, 2007) and 06-006-02 (May 31, 2007). Amended by Promulgation Order No. 06-006-16 (July 29, 2014).

**CVR 26.1. Discovery Documents - Nonfiling and Disclosure.**

(a) Nonfiling of Discovery Documents and Proof of Service. The following discovery documents and proofs of service thereof shall not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue:

- (1) Transcripts of depositions upon oral examination;
- (2) Transcripts of depositions upon written questions;
- (3) Interrogatories;
- (4) Answers or objections to interrogatories;
- (5) Requests for the production of documents or to inspect tangible things;
- (6) Responses or objections to requests for the production of documents or to inspect tangible things;
- (7) Requests for admission;
- (8) Responses or objections to requests for admission; and
- (9) Disclosures made under GRCP 26 and CVR 26.2.

When required in a proceeding, only that part of the document which is in issue shall be filed. All such discovery documents shall be held by the attorney pending use pursuant to this Rule for

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the period specified in Civil Rule 79.1 for the retention of exhibits, unless otherwise ordered by the Court.

(b) Discovery Documents - Disclosure. During the pendency of any civil proceeding, any person may, after written notice is served on all parties to the action, obtain a copy of any deposition or discovery document not on file with the Court upon payment of the expense of the copy and upon

(1) approval by the clerk, if no objection is filed with the clerk by any party to the action within five (5) days after service of such written notice, or

(2) leave of Court, if an objection is filed with the clerk by any party to the action within five (5) days after service of such written notice.

**CVR 26.2. Required Disclosure.**

The general provisions governed by discovery and the duty of disclosure are set forth in GRCP 26.

(a) A lawyer shall not use any form of discovery, or the scheduling of discovery, as a means of unduly harassing opposing counsel or his or her client.

(b) Requests for production shall not be excessive or designed solely to place a burden on the opposing party.

(c) Lawyers shall, when practical, consult with opposing counsel before scheduling hearings and depositions, in a good faith attempt to avoid scheduling conflicts.

(d) When scheduling hearings and depositions, lawyers shall communicate with opposing counsel in an attempt to schedule them at a mutually agreeable time.

If a request is made to schedule a hearing or deposition, the lawyer to whom the request is made shall confirm that the time is available or advise of a conflict within a reasonable time and suggest an alternate time for the hearing or deposition

**CVR 30.1. Depositions.**

The original transcript of a deposition shall, unless otherwise stipulated to on the record at the deposition, after signing and correction, or waiver of the same, be sent to the attorney noticing the deposition.

**CVR 33.1. Interrogatories and Requests for Admission.**

(a) Limitation on Number of Interrogatories and Requests for Admission. No party shall serve more than one set of interrogatories or requests for admission on any other party without leave of court. Interrogatories or requests for admission shall not exceed fifty (50) in number, counting any subparts or subquestions as individual questions. Subparts or subquestions of any interrogatory shall relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall submit to the Court a written memorandum setting forth the proposed additional interrogatories or requests for admission and the reasons establishing good cause for their use.

(b) Answers and Objections to Interrogatories and Requests for Admission. The party answering or objecting to interrogatories or requests for admission shall quote each interrogatory

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or request in full immediately preceding the statement of any answer or objection thereto. Upon request the propounding party shall make reasonable efforts to provide the party answering or objecting to interrogatories or requests for admission with the text of each interrogatory or request in electronic format.

(c) Interrogatories, Requests for Admission and Requests for Production of Documents - Original. The original of the interrogatories, requests for admission or requests for the production of documents or to inspect tangible things served on the opposing party shall be held by the attorney propounding the interrogatories or requests pending use. (See CVR 26.1(a).)

**CVR 36.1. Requests for Admission.**

See CVR 33.1.

**CVR 37.1. Discovery Motions.**

(a) Prior to the filing of any motion relating to a discovery dispute, counsel for the parties shall meet or attempt to meet in a good faith effort to eliminate the necessity for hearing the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for the conference which shall be held within a reasonable time.

(b) If counsel are unable to settle their differences, they shall formulate a written stipulation specifying separately and with particularity each issue that remains to be determined at the hearing.

By way of example only, if the sufficiency of an answer to an interrogatory is in issue, the stipulation shall contain verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. The stipulation shall be served and filed with the notice of motion. In the absence of such stipulation, or a declaration of counsel of non-cooperation by the opposing party, the Court will not consider any discovery motion unless otherwise ordered upon good cause shown.

(c) Briefing and oral argument of all discovery motions shall be scheduled pursuant to CVR 7.1.

(d) If the discovery disputes are found to be frivolous or based on counsel's failure to cooperate with each other in good faith, sanctions will be imposed at the discretion of the Court.

**CVR 41.1. Call of the Docket - Status Hearings.**

Status hearings shall be scheduled by the clerk in all cases pending with no action taken in the preceding six (6) months. Notice shall be given in writing to each attorney of record in every case to be called, stating the date and time for such hearing. If good and sufficient reasons are not presented by counsel for failure to have taken appropriate action in any such case, the Court may dismiss the action or enter such other order as may be proper.

**CVR 51.1. Proposed Jury Instructions, Voir Dire Questions and Verdict Forms.**

In jury cases, the parties shall not less than fourteen (14) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed voir dire questions, if desired, and proposed jury instructions and verdict forms.

**CVR 52.1. Proposed Findings of Fact and Conclusions of Law.**

In non-jury cases, if ordered by the Court, the parties shall not less than fourteen (14) calendar

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days prior to the date on which the trial is scheduled to commence, serve and lodge proposed findings of fact and conclusions of law.

**CVR 54.1. Taxation of Costs.**

(a) Application to the Clerk. Within thirty (30) days after the entry of a judgment allowing costs the prevailing party shall serve on the attorney for the adverse party and file with the clerk an application for the taxation of costs. The application shall be on a Bill of Costs form which shall be furnished by the Clerk of Court upon request. If an application for costs is received which is not on the appropriate form, the clerk shall promptly notify the party seeking costs, shall forward the correct form, and shall extend the time for filing the amended claim for a period not to exceed ten (10) days. The application shall contain an itemized schedule of the costs in a sworn statement signed by the attorney for the applicant that the schedule is correct, that the costs were necessarily incurred in the case, and that the services for which fees have been charged were actually and necessarily performed. The application shall be heard by the Clerk not less than eleven (11) nor more than sixteen (16) days after it is served, and written notice of the time of hearing shall be given to all parties by the Clerk of Court.

A failure to comply with this Rule waives the right to recover all costs, other than the clerk's costs, which may be inserted in the judgment without application. At the option of the Clerk, the hearing may be held by telephone conference call.

**(b) Items Taxable as Costs.**

(1) Filing fees. The clerk's filing fees.

(2) Fees for Service of Process. Fees for service of process (whether served by the Marshal or other persons authorized by Rule 4, Guam Rules of Civil Procedure.)

(3) Marshal's Fees – Other fees and charges paid to the Marshal pursuant to Guam law.

(4) Reporter's Transcripts. The cost of the original and one copy of all or any part of a trial transcript, daily transcript or a transcript of matters occurring before or after trial, if requested by the Court or prepared pursuant to stipulation.

(5) Depositions. Costs incurred in connection with taking depositions, including:

(A) the cost of the original and one copy of all depositions (including videotaped depositions) necessarily obtained for use in the case;

(B) if both video and stenographic depositions are taken, they both shall be allowed as costs if the video deposition is used at trial. If only the stenographic version is used at trial, the video shall not be allowed as a cost. If neither is used at trial, the cost of the less expensive deposition will be allowed so long as the deposition would have been recoverable. The cost of ASCII disks is recoverable.

(C) the reasonable fees of the deposition reporter, the notary, and any other persons required to report or transcribe depositions which were necessarily obtained for use in the case;

(D) reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to Rule 26(b)(4)(C), Guam Rules of Civil Procedure.

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(E) reasonable fees paid to an interpreter when necessary to the taking of the deposition; and

(F) the cost of copying or reproducing exhibits used at the deposition and made a part of the deposition transcript.

(6) Witness Fees. Fees paid to witnesses, including:

(A) per diem, mileage, subsistence and attendance fees paid to witnesses subpoenaed and/or actually attending the proceeding;

(B) witness fees for a party if required to attend by opposing party; and

(C) witness fees for officers and employees of a corporation if they are not parties in their individual capacities.

(7) Interpreter's and Translator's Fees. Fees paid to interpreters and translators, including:

(A) The salaries, fees, expenses and costs of an interpreter; and,

(B) Fees for translation of documents received in evidence, used as part of the proceeding or when otherwise reasonably necessary to the preparation of the case.

(8) Docket Fees – The cost of generating a copy of the docket sheet or clerk's record.

(9) Masters, Commissioners, and Receivers. The reasonable fees and expenses of masters, commissioners, and receivers.

(10) Certification, Exemplification and Reproduction of Documents. Document preparation costs for documents necessarily obtained for use in the case, including:

(A) the cost of copies of an exhibit attached to a document necessarily served and filed;

(B) the cost of copies of documents admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;

(C) fees for an official certification of proof respecting the non-existence of a document or record;

(D) notary fees incurred in notarizing a document when the cost of the document is taxable; and

(E) fees for necessary copies and necessary certification or exemplification of any documents.

(11) Premiums on Undertakings and Bonds. Premiums paid on undertakings, bonds, security stipulations, or substitutes therefor where required by law, court order, or where necessary to enable a party to secure a right granted in the proceeding.

(12) Other Costs. Upon order of the Court, the following items may be taxed as costs:

(A) summaries, computations, polls, surveys, statistical comparisons, maps, charts, diagrams and other visual aids reasonably necessary to assist the jury or the Court in understanding the issues at the trial;

(B) photographs, if admitted in evidence or attached to documents necessarily served



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upon the opposing party and filed; and

(C) the cost of models if ordered by the Court in advance of or during trial.

(13) Costs on Appeal. Costs on appeal taxable in the Superior Court shall be governed by GRAP 22(e). Such costs bill is to be filed within fifteen (15) days of the filing and spreading of the mandate of the Supreme Court of Guam.

(14) Items of costs not specifically mentioned in this rule shall be taxed by the Clerk in accordance with the laws of Guam.

(c) Objections to Bill of Costs - Response. Any party may file and serve written objections to any item specified in a Bill of Costs. The grounds for objections shall be specifically stated. The objections shall be served and filed no later than five (5) days before the date noticed for the hearing. A written response may be served and filed no later than three (3) days before the date noticed for the hearing.

(d) Clerk's Determination - Finality. After considering any objections to the Bill of Costs and any responses thereto, the Clerk shall tax costs to be included in the judgment. The Clerk's determination shall be final unless modified by the Court upon review pursuant to subsection (e) hereof.

(e) Review of Clerk's Determination. A dissatisfied party may appeal to this Court upon written motion served within five (5) days of the Clerk's decision, as provided in GRCP Rule 54(d). The motion shall specify all objections to the Clerk's decision and the reasons for the objections. Appeals shall be heard upon the same papers and evidence submitted to the Clerk.

(f) Clerk's Duty. As soon as practicable after the taxation of costs becomes final, the Clerk shall insert the amount of costs taxed into the blank left in the taxation of costs form and the judgment, and shall enter a similar notation on the docket sheet.

(g) Writ of Execution for Costs. The clerk shall, upon request, issue a writ of execution to recover costs or attorney's fees included in the judgment:

(1) Upon presentation of a certified copy of the final judgment in the Superior Court; or

(2) Upon presentation of a mandate of the Supreme Court of Guam to recover costs taxed by the Supreme Court.

**CVR 54.2. Sanctions for Late Notification of Settlement, Postponement or Other Disposition of Civil Jury Trial.**

Whenever any civil action scheduled for jury trial is required to be postponed, or settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, all juror costs shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Court and the Clerk's Office are notified at least one full business day prior to the day on which the action is scheduled for trial.

**CVR 54.3. Filing Date for Attorney's Fees.**

Any motion or application for attorney's fees shall be served and filed within fourteen (14) days after the entry of judgment or other final order, unless otherwise ordered by the Court. Such motions and their disposition shall be governed by CVR 7.1 and Rule 54(d)(2) of the Guam Rules

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of Civil Procedure.

**CVR 56.1. Summary Judgment.**

(a) Motion. Any motion for summary judgment must include:

(1) a statement of the issues to be decided by the court; and

(2) a “Statement of Undisputed Material Facts” with references to supporting material in the record.

(b) Response. Any response to a motion for summary judgment must include:

(1) a statement of the issues to be decided by the court if the nonmovant is dissatisfied with the movant’s statement of the issues; and

(2) a response to the “Statement of Undisputed Material Facts,” which may include a statement of material facts that demonstrate the existence of a genuine factual dispute to be tried, with references to supporting material in the record.

**SOURCE:** Adopted by Prom. Order No. PRM 06-006-18 (July 18, 2022).

**2022 COMPILER NOTE:** According to the Subcommittee on Civil Rules, the source of this new provision is E.D. Tex. Local Rule CV-56 (2021) and D. Mass. Local Rule 56.1 (2021).

**CVR 58.1. Judgments.**

(a) Judgment. The Judgment shall be set forth on a separate document as required by Rule 58, Guam Rules of Civil Procedure. The Judgment shall follow, as nearly as possible, Guam Rules of Civil Procedure Official Forms No. 31 or No. 32.

(b) Entry of Judgments and Orders.

(1) In all cases, the notations of judgments and orders in the civil docket by the clerk will be made at the earliest practicable time. The notations of judgment will not be delayed pending taxation of costs, but there may be inserted in the judgment a clause reserving jurisdiction to tax and apportion the costs by subsequent order.

(2) Orders under subdivision (a) of this Rule will be noted in the civil docket immediately after the clerk has signed them.

(3) No judgment or order, except orders granted by the Clerk under Civil Rule 77.1 and judgments which the Clerk is authorized by the Guam Rules of Civil Procedure to enter without direction of the Court, will be noted in the civil docket until the clerk has received from the Court a specific direction to enter it. Unless the Court’s direction is given to the clerk in open court and noted in the minutes, it should be evidenced by the judge’s signature or initials on the judgment or order.

(4) Every order and judgment shall be filed in the Clerk’s Office.

**CVR 65.1. Temporary Restraining Orders and Preliminary Injunctions.**

(a) Application for Temporary Restraining Order or Preliminary Injunction. An application

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for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint.

(b) Preliminary Injunctions. When a temporary restraining order (“TRO”) is not sought, an application for a preliminary injunction shall be made by motion and not by order to show cause. When a TRO is sought, application for a preliminary injunction shall be made by order to show cause. If the TRO is granted, the hearing on the order to show cause will be set within ten (10) days after the entry of the TRO unless otherwise agreed by the parties. If the TRO is denied, the Court may set the hearing on the order to show cause re: preliminary injunction without regard to the requirements of CVR 7.1.

**CVR 65.1.1. Bonds and Sureties.**

(a) Security for Costs. On its own motion or a party’s motion, the Court may order any party to file a bond for costs in an amount and under conditions designated by the Court. After the bond is filed, any opposing party may raise objections to its form or to the sufficiency of the surety for determination by the Clerk. If the bond is found to be insufficient, the Court may order the filing of a sufficient bond within a specified time. If the order is not complied with, the Clerk may enter dismissal of the action as in the case of dismissal for want of prosecution.

(b) Qualifications of Surety. Every bond for costs under these Rules must have as surety either

(1) a cash deposit, certified check or bank check equal to the amount of the bond or

(2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under Title 31 U.S.C. §§ 9301-9309, or

(3) two individual residents of Guam, each of whom owns real or personal property within Guam sufficient in value above encumbrances to justify the full amount of the suretyship, or

(4) any insurance, surety or bonding company licensed to do business in Guam.

(c) Court Officers as Surety. No clerk, marshal or other employee of the Court, nor any member of the bar representing a party in the particular action or proceeding, will be accepted as surety on any bond or other undertaking in any action or proceeding in this Court. Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed as surety on the bond. Upon exoneration of the bond, such monies shall be returned to the owner and not to the attorney, unless the Court orders otherwise.

(d) Suits by Indigent Persons. At the time an application is made, for leave to commence any civil proceeding without being required to prepay fees and costs or give security for them, the applicant shall file a written consent that the recovery, if any, in the proceeding, to the amount as the Court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and costs taxed against the plaintiff and, to plaintiff’s attorney, the amount which the Court allows or approves as compensation for the attorney’s services.

(e) Deposit of Money or United States Obligations in Lieu of Surety. In lieu of surety in any civil case, there may be deposited with the clerk of the Court lawful money or negotiable bonds or notes of the United States or certificates of deposit from federally-insured financial institutions. The depositor shall execute a suitable bond, and, if negotiable bonds or notes of the United States or certificates of deposit from federally-insured financial institutions are deposited, shall also execute the agreement required by 31 U.S.C. § 9303 or any other required agreement, authorizing

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the clerk to collect or sell the bonds, notes, or certificates of deposit in the event of default.

(f) Examination of Sureties. Any party may apply for an order requiring any opposing party to show cause why it should not be required to furnish further or different security, or requiring personal sureties to justify.

**CVR 66.1. Receivers.**

(a) Appointment of Receivers. Application for the appointment of a receiver may be made after the complaint has been filed and the summons issued.

(1) Temporary Receivers. A temporary receiver may be appointed without notice to the party sought to be subjected to a receivership in accordance with the requirements and limitations of the Guam Rules of Civil Procedure.

(2) Permanent Receivers. A permanent receiver may be appointed after notice and hearing upon an order to show cause. This order shall be issued by a judge upon appointment of a temporary receiver or upon application of the plaintiff and shall be served on all parties. The defendant shall provide the temporary receiver (or, if there is no temporary receiver, the plaintiff) within five (5) days, with a list of the defendant's creditors, and their addresses. Not less than five (5) days before the hearing, the temporary receiver (or, if none, the plaintiff) shall mail to the creditors listed, a notice of hearing, and file a proof of mailing.

(3) Bond. A judge may require any receiver appointed to furnish a bond in an amount which the judge deems reasonable.

(b) Employment of Experts. The receiver shall not employ an attorney, accountant or investigator without an order of a judge. The compensation of all such employees shall be fixed by the judge.

(c) Application for Fees. All applications for fees for services rendered in connection with a receivership shall be made by petition setting forth in reasonable detail the nature of the services and shall be heard in open court.

(d) Deposit of Funds. A receiver shall deposit all funds received in a depository designated by the judge, entitling the account with the name and number of the action. At the end of each month, the receiver shall deliver to the clerk a statement of account and the canceled checks.

(e) Reports. Within thirty (30) days of appointment, a permanent receiver shall file with the Court a verified report and petition for instructions. The petition shall be heard on ten (10) days notice to all known creditors and parties. The report shall contain a summary of the operations of the receiver, an inventory of the assets and their appraised value, a schedule of all receipts and disbursements, and a list of all creditors, their addresses and the amounts of their claims. The petition shall contain the receiver's recommendation as to the continuance of the receivership and reason for the recommendations. At the hearing, the judge shall determine whether the receivership shall be continued and, if so, the judge shall fix the time for future reports of the receiver.

(f) Notice of Hearings. The receiver shall give all interested parties at least ten (10) days notice of the time and place of hearings concerning:

- (1) Petitions for the payment of dividends to creditors;
- (2) Petitions for confirmation of sales of property;

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(3) Reports of the receiver;

(4) Applications for fees of the receiver or of any attorney, accountant or investigator, the notice to state the services performed and the fee requested; and,

(5) Applications for discharge of the receiver.

**CVR 67.1. Deposit in Court.**

See General Rule 8.1.

**CVR 77.1. Orders Grantable by Clerk.**

The Clerk of Court is authorized to grant, sign, and enter the following orders without further direction by the Court. Any orders so entered may be suspended, altered, or rescinded by the Court for cause shown:

(a) Orders on consent satisfying a judgment or an order for the payment of money;

(b) Orders entering judgments on verdicts or decisions of the Court in circumstances authorized in Rule 58, Guam Rules of Civil Procedure, and orders entering defaults for failure to plead or otherwise defend, in accordance with Rule 55, Guam Rules of Civil Procedure;

(c) Any other orders which pursuant to Rule 77(c) of the Guam Rules of Civil Procedure, do not require allowance or order of the Court.

**CVR 77.2. Clerk of Court.**

See General Rule 7.1.

**CVR 79.1. Custody and Disposition of Exhibits and Transcripts.**

(a) Custody. Every exhibit offered in evidence, including depositions and transcripts, shall be held in the custody of the clerk of this Court. Unless reason exists for retaining originals, the judge will, upon application, order them returned to the party to whom they belong upon the filing of copies thereof approved by counsel for all parties concerned.

(b) Delivery to Person Entitled in Civil Cases. In all civil cases in which final judgment has been entered and the time has expired for filing a motion for new trial, a motion for rehearing or a notice of appeal, any party or person may withdraw any exhibit, deposition, or transcript of testimony originally produced by him, without court order, upon ten (10) days written notice to all parties, unless within that time another party or person files notice of claim thereto with the clerk. In the event of competing claims, the Court shall determine the person entitled and order delivery accordingly. For good cause shown, the Court may allow withdrawal or determine competing claims in advance of the time above specified.

(c) Unclaimed Exhibits in Civil Cases. If exhibits, depositions or transcripts of testimony in civil cases are not withdrawn within twenty (20) days after the time when notice may first be given under subdivision (b) of this Rule, the clerk shall give notice to the parties to claim the same. If the parties do not withdraw such exhibits, depositions and transcripts of testimony within forty (40) days after notice by the clerk to claim the same, the clerk may destroy them in accordance with Title 6 GCA § 4307 or make other disposition as he sees fit.

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Emergency Telephone Numbers. When counsel urgently need action or assistance and cannot wait for normal business hours, counsel may contact the Clerk of Court at 635-0964.

**APPENDIX OF FORMS**

CVR 7.1 Form 1	Notice of Motion and Motion / Briefing Schedule / Certificate of Service
CVR 7.1 Form 2	Statement re Oral Argument on Pending Motion
CVR 7.1 Form 3	Notice of Hearing or Submission on Briefs
CVR 7.1 Form 4	Application to Shorten Time; Order
CVR 7.1 Form 5	Application <i>Ex Parte</i> Relief; Order
CVR 16.1 Form 1	Scheduling Notice
CVR 16.1 Form 2	Proposed Scheduling Order
CVR 16.1 Form 3	Discovery Plan and Proposed Order
CVR 54.1	Bill of Costs

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**In the Superior Court of Guam**

Plaintiff(s)
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Case No.
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V.

Defendant(s)
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**CVR 7.1 FORM 1**

And any related claims and parties.

**NOTICE OF MOTION and MOTION**

Please take notice that

Movant(s)
-----------

hereby move(s) the court for an Order granting the following relief:

Relief Sought
Oral Argument is requested:    Yes ____    No ____    Unknown at this time ____

**BRIEFING SCHEDULE**

Pursuant to CVR 7.1(b) and (d)(1)-(3), or order of this court, or stipulation filed with the court, the respective briefs of the parties on the motion must be filed and served as follows:

Opening brief due:

Normally the date of filing of this Notice
--

Opposition brief due:

Normally 28 days after above date
-----------------------------------

Reply brief (if any) due:

Normally 42 days from the filing of the motion
--

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he or she has caused, or within one business day of filing, shall cause this notice, together with any and all accompanying documents and supporting memoranda relative to the subject motion, to be served upon all parties who have appeared herein, through counsel of record, pursuant to Guam Rule Civil Procedure Rule 5.

**RESPECTFULLY SUBMITTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Movant(s)	
Attorney	
Attorney's Signature	

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In the Superior Court of Guam

Plaintiff(s)

Case No.
----------

v.

Defendant(s)

**CVR 7.1 FORM 2**

And any related claims and parties.

**STATEMENT RE: ORAL ARGUMENT ON PENDING MOTION**

[To be filed no later than seven (7) days after filing of the last brief on the subject motion or after the time for such filing has elapsed.]

On			Movant(s)
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filed a motion for an order granting the following relief:

Relief Sought

With respect to said motion, the undersigned hereby:

☐ Requests oral argument on the motion.

☐ The parties have agreed that the motion should be heard on or about:

Parties' proposed hearing date
--------------------------------

☐ The parties either have not agreed on a hearing date or have not discussed the matter.

☐ Represents that oral argument on the motion is unnecessary.

**RESPECTFULLY SUBMITTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Party	
Attorney	Attorney's Signature



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**In the Superior Court of Guam**

Plaintiff(s)

Case No.
----------

v.

Defendant(s)

**CVR 7.1 FORM 3**

And any related claims and parties.

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**NOTICE OF HEARING OR SUBMISSION ON BRIEFS**

On 

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 Movant(s)  
filed a motion for an order granting the following relief:

Relief Sought

---

**PLEASE TAKE NOTICE that with respect to said motion:**

Oral argument is set before the court at the following date and time:

<input type="checkbox"/>	<table border="1"><tr><td></td></tr></table>	

☐ The court has determined that oral argument is unnecessary.

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**DATED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Clerk/Deputy Clerk	
Judge	Signature

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

TELEPHONE NO.:

EMAIL ADDRESS:

ATTORNEY FOR (NAME):

**In the Superior Court of Guam**

Plaintiff(s)
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v.

Defendant(s)
--------------

Case No.
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**CVR 7.1 FORM 4**

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**APPLICATION TO SHORTEN TIME; ORDER**

1. I am applying to shorten time on the following motion, application, or requested relief:


2. Reason(s) necessary to shorten time:


3. Name of opposing parties (or attorneys), or if there are no opposing parties, the name of interested parties entitled to notice as required by law:

--

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4. **NOTICE** (*Note: If opposing/interested parties HAVE NOT BEEN GIVEN NOTICE, this CVR 7.1 FORM 4 is NOT APPLICABLE. You must use CVR 7.1 FORM 5 "APPLICATION FOR EX PARTE RELIEF"*):

- ☐ The opposing (or interested) parties were notified of the relief requested; and I hereby certify that I will notify the opposing (or interested) parties of the hearing date and time as scheduled by the Court.

Notice was given to: \_\_\_\_\_

Notification occurred on (*date*): \_\_\_\_\_ at (*time*) \_\_\_\_\_ .m.

Manner of notification: \_\_\_\_\_

5. **AGREEMENT OR OPPOSITION OF OPPOSING (OR INTERESTED) PARTIES:**

- ☐ The opposing (or interested) parties agree to shorten time on the moving party's (*insert name of motion, application, or requested relief listed in Section 1.*):

--

- ☐ The opposing (or interested) parties oppose the application to shorten time for the following reasons:


- ☐ The opposing (or interested) parties did not respond to notice of the application to shorten time or the parties have otherwise not discussed whether this application is opposed or unopposed.

**I declare under penalty of perjury under the laws of Guam that the above information and all attachments are true and correct.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**ORDER**

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☐ Oral argument on the application to shorten time is set before the Court at the following date and time:

\_\_\_\_\_ at \_\_\_\_\_ .m.  
Oppositions to the application to shorten time must be filed by \_\_\_\_\_  
at \_\_\_\_\_ .m.

Replies to any oppositions must be filed by \_\_\_\_\_ at \_\_\_\_\_ .m.

**OR**

The Court hereby: ☐ GRANTS ☐ DENIES the application to shorten time for the following reasons:


The hearing on the moving party's (*insert name of motion, application, or requested relief listed in Section I.*):

\_\_\_\_\_ shall be held on  
\_\_\_\_\_ at \_\_\_\_\_ .m.

Oppositions to the \_\_\_\_\_ must be filed by  
\_\_\_\_\_ at \_\_\_\_\_ .m.

Replies to any oppositions must be filed by \_\_\_\_\_ at \_\_\_\_\_ .m.

**SO ORDERED:**

\_\_\_\_\_  
**HONORABLE**  
**Judge, Superior Court of Guam**

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):

TELEPHONE NO.:

EMAIL ADDRESS:

ATTORNEY FOR (NAME):

**In the Superior Court of Guam**

Plaintiff(s)
--------------

v.

Defendant(s)
--------------

Case No.
----------

**CVR 7.1 FORM 5**

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**APPLICATION *EX PARTE* RELIEF; ORDER**

1. Type of relief requested:


2. Explain **in detail** the reason(s) *ex parte* relief is necessary (e.g., notice of the application for ex parte relief would frustrate the purpose of the order sought, or applicant would suffer immediate and irreparable harm before the matter can be heard on notice):


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*NOTE: IF NOTICE HAS BEEN GIVEN TO OPPOSING OR INTERESTED PARTIES, THIS CVR 7.1 FORM 5 IS NOT APPLICABLE. SEE CVR 7.1 FORM 4 "APPLICATION TO SHORTEN TIME."*

3. Name of opposing parties (or attorneys), of if there are no opposing parties, the name of interested parties entitled to notice as required by law:


4. **MEMORANDUM OF POINTS AND AUTHORITIES:**

- ☐ I hereby certify that I have attached the Memorandum of Points and Authorities as required by CVR 7.1(k)(2)(B).

5. **PROPOSED ORDER:**

- ☐ I hereby certify that I have attached the proposed order granting relief requested as required by CVR 7.1(k)(2)(E).

6. **STATEMENT REGARDING EXPEDITED BASIS:**

- ☐ I believe it is necessary for this application for *ex parte* to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure for the following reasons:


- ☐ It is not necessary for this application for *ex parte* relief to be heard on an expedited basis or earlier than the regular time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure

**I declare under penalty of perjury under the laws of Guam that the above information and all attachments are true and correct.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

**ORDER**

The Court hereby: ☐ GRANTS ☐ DENIES the application to hear the matter *ex parte* for the following reasons:


The Court hereby: ☐ GRANTS ☐ DENIES the request to hear the matter on an expedited basis for the following reasons:


The hearing on the matter shall be held on \_\_\_\_\_ at \_\_\_\_m.

**SO ORDERED:**

\_\_\_\_\_  
**HONORABLE**  
**Judge, Superior Court of Guam**

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

**IN THE SUPERIOR COURT OF GUAM**

	)	Superior Court Case No. _____
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>CVR 16.1 FORM 1</b>
	)	
	)	
Defendant.	)	
_____	)	

**SCHEDULING NOTICE**

The Civil Rules (“CVR”) establish procedures for complying with Rules 16(b) and 26(f) of the Guam Rules of Civil Procedure (“GRCP”). Counsel should study the Civil Rules before attempting to process cases in this court.

**PURSUANT TO CVR 16.1 AND 16.2, IT IS HEREBY ORDERED THAT:**

(1) Counsel of record and all pro se litigants that have appeared in the case must meet and confer, within fifteen (15) days after receipt of this Notice, but no later than sixty (60) days after the filing of the complaint, prior to commencing discovery.

(2) A proposed Scheduling Order and a proposed Discovery Plan shall be filed on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. Careful and immediate attention should be given to the directions in CVR 16.1 and 16.2 to ensure complete and timely compliance with GRCP Rules 16(b) and 26(f), and the Local Rules.

(3) Plaintiff’s counsel, or if the plaintiff is pro se, then the pro se plaintiff, must take the lead in the preparation of the Scheduling Order. If a defendant is not contacted by a pro se plaintiff within the required time frame, the defendant shall contact the pro se plaintiff and arrange a meeting to comply with this Rule in the appropriate time frame. The failure of a party or its counsel



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

to participate in good faith in the framing of a Scheduling Order may result in the imposition of sanctions.

(4) Counsel of record and all pro se litigants that have appeared in the case are jointly responsible for submitting a Proposed Discovery Plan to the Court.

(5) A Scheduling Conference shall be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_:\_\_\_\_.m.

(6) Counsel are reminded that the filing of motions does not postpone discovery.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DANIELLE T. ROSETE  
Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk

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

**IN THE SUPERIOR COURT OF GUAM**

	)	Superior Court Case No. _____
	)	
	)	
Plaintiff,	)	
	)	<b>CVR 16.1 FORM 2</b>
vs.	)	
	)	
	)	
	)	
Defendant.	)	
_____	)	

**PROPOSED SCHEDULING ORDER**

**TRIAL**

The court shall set trial no later than \_\_\_\_\_. *See* CVR 16.1(c)(4)(D)(viii) (unless otherwise ordered by the court, “in no event shall the trial date be later than fifteen (15) months after the complaint is filed.”).

Bench trial/Trial by jury shall be scheduled for \_\_\_\_\_ at \_\_\_\_\_.m.

Estimated duration of trial: \_\_\_\_\_.

The nature of the case: \_\_\_\_\_

\_\_\_\_\_  
The names of counsel in this case are: \_\_\_\_\_

**SCHEDULING CONFERENCE**

Scheduling Conference is scheduled for \_\_\_\_\_ at \_\_\_\_\_.m.

**MOTIONS**

(1) Motions to join other parties shall be filed no later than \_\_\_\_\_ and motions to otherwise amend pleadings shall be filed no later than \_\_\_\_\_. Thereafter, parties may be joined and/or pleadings amended only upon leave of court and for good cause shown.

(2) All motions under the discovery rules shall be filed no later than \_\_\_\_\_.

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

(3) Dispositive motions shall be filed no later than \_\_\_\_\_.

**MEDIATION/ADR**

(1) \_\_\_\_ Counsel have informed their clients of the availability of mediation as required under Miscellaneous Rule MR 4.1.6 of the Local Rules of the Superior Court of Guam and counsel have filed the required MR Form 4.1 B1 “Mediation Certification.”

(2) \_\_\_\_ The parties have agreed to mediation, either voluntarily under 7 GCA Chapter 43A or as ordered to do so by the court under Miscellaneous Rule MR 4.1.6 of the Local Rules of the Superior Court of Guam.

(3) \_\_\_\_ The parties have attempted Alternative Dispute Resolution under 7 GCA Chapters 42A or 42B.

\_\_\_\_ The parties have not attempted Alternative Dispute Resolution and do not intend to.

\_\_\_\_ The parties have not attempted Alternative Dispute Resolution but may do so in the future.

**FURTHER PRE-TRIAL PROCEEDINGS**

(1) The Pretrial Conference shall be held on the \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_.m.

(2) Trial brief:

(a) \_\_\_\_ The court orders each party to file a trial brief no later than \_\_\_\_\_.

(b) \_\_\_\_ The court does not require the parties to file a trial brief.

(3) The following documents shall be filed or lodged by \_\_\_\_\_ (usually no later than fourteen (14) days prior to trial:

- (a) Witness lists
- (b) Exhibit lists
- (c) Discovery Material Designations
- (d) Proposed Jury Instructions
- (e) Proposed Voir Dire Questions
- (f) Proposed Forms of Verdicts

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

(4) Discuss prospects for settlement: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(5) Discuss any suggestions for shortening trial: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

**SO ORDERED:** \_\_\_\_\_.

\_\_\_\_\_  
Judge, Superior Court of Guam

LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM

IN THE SUPERIOR COURT OF GUAM

	)	Superior Court Case No. _____
	)	
	)	
Plaintiff,	)	
	)	<b>CVR 16.1 FORM 3</b>
vs.	)	
	)	
	)	
Defendant.	)	
_____	)	

**DISCOVERY PLAN AND PROPOSED ORDER**

(1) Unless required in support of a motion or by order of the court, discovery documents are not to be filed with the court.

(2) The following matters will affect the status or management of the case: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) In accordance with Guam Rules of Civil Procedure (“GRCP”) Rule 26(f) and CVR 16.2, the parties:

(a) \_\_\_\_ Have met and conferred on \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_.m., attended by: \_\_\_\_\_

\_\_\_\_\_

(b) \_\_\_\_ Parties have not conferred because: \_\_\_\_\_

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

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but plan to meet and confer on \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_.m.

(4) Initial disclosures, as required by GRCP 26(a)(1), will be exchanged by: \_\_\_\_\_  
\_\_\_\_\_. (GRCP 26(a)(1) generally requires exchange within 14 days of the  
GRCP 26(f) conference.)

(5) Expert witness disclosures in accordance with GRCP 26(a)(2) must be made on or  
before \_\_\_\_\_ (in the absence of a court order or stipulation by the parties, GRCP  
26(a)(2)(C) requires disclosure at least 90 days before trial, or 30 days after initial disclosure if  
offered for rebuttal).

(6) Pursuant to GRCP 26(a)(3), each party shall serve and file, on or before  
\_\_\_\_\_, pretrial disclosures which, unless otherwise specifically stated, must include  
expert as well as lay witnesses. Unless solely for impeachment, only those witnesses so disclosed  
will be permitted to testify at trial. (GRCP 26(a)(3) generally requires disclosure at least 30 days  
before trial).

(7) Limits on discovery

The limitations on discovery in accordance with GRCP 26(b) shall apply, except:

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(8) The following is a description and schedule of all pretrial discovery each party intends  
to initiate prior to the close of discovery:

//

//

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

Plaintiff:

---

---

Defendant:

---

---

---

Plaintiff

---

Defendant

**SO ORDERED:** \_\_\_\_\_.

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Judge, Superior Court of Guam

LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM

ATTACHMENT “CVR 54.1”

IN THE SUPERIOR COURT OF GUAM

	)	Case No. _____
	)	
Plaintiff(s),	)	
	)	
vs.	)	<b>BILL OF COSTS</b>
	)	
	)	
Defendant(s)	)	
_____	)	

Judgment having been entered in the above-entitled action on \_\_\_\_\_, 200\_\_ against \_\_\_\_\_, the Clerk of the Superior Court of Guam is requested to tax the following as costs:

**BILL OF COSTS**

FILING FEES:	\$ _____
Complaint	\$ _____
Summons	\$ _____
Subpoena	\$ _____
Other Clerk’s Fees	\$ _____

MARSHAL’S FEES:	\$ _____
Service of Summons/Subpoenas	\$ _____
Mileage	\$ _____
Other Marshal’s costs	\$ _____

COURT TRANSCRIBER’S FEES:	\$ _____
Other Transcriber’s fees	\$ _____

WITNESS FEES:	\$ _____
Other Witness fees	\$ _____

INTERPRETER’S FEES:	\$ _____
Other Interpreter’s fees	\$ _____



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

ATTORNEY'S APPEARANCE FEE: \$ \_\_\_\_\_  
OTHER COSTS (Please itemize): \$ \_\_\_\_\_  
TOTAL COSTS TO BE TAXED: \$ \_\_\_\_\_

**DECLARATION**

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which have been charged were actually and necessarily performed. A copy of this Bill of Costs was served on \_\_\_\_\_  
on \_\_\_\_\_, at \_\_\_\_\_ .m.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
CLAIMING PARTY  
(Print name and Sign)

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

## **CRIMINAL PROCEDURE RULES**

(Promulgation Order No. 13-002-02 (Apr. 9, 2014), eff. April 9, 2014)

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

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

**CRIMINAL PROCEDURE RULES**

**CR 1.1 Pleadings and Pretrial Motions**

(a) Applicability. The provisions of this Rule shall apply to all criminal cases, unless otherwise ordered by the court or provided by statute, or the Local Rules of the Superior Court of Guam.

(b) Motions.

(1) Required Pleadings. An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought. It shall be supported by a memorandum containing citations of authority and may also be supported by affidavit. The motion shall also include copies of all documentary evidence that the moving party intends to submit in support of the motion. Additionally, all motions and each response or opposition thereto shall contain a statement whether an evidentiary hearing is requested and an estimate of the time required for the presentation of the evidence and/or arguments. The reply brief shall contain a re-estimate of the time or a statement that the original estimate is unchanged.

**SOURCE:** 8 GCA § 1.27 and Proposed District Court CRLR 12(a)

(2) In addition to the motions required to be filed under Title 8 GCA § 65.15 the following pre-trial motions shall be made in writing:

- (A) Motions made pursuant to the Guam Rules of Evidence Rules 404, 412 and 413;
- (B) Motion for reconsideration;
- (C) Any motion to withdraw as counsel made after the first criminal trial setting.

(3) Witness List. Within twenty-four (24) hours of the scheduled evidentiary hearing, the parties shall file and serve a list of any witnesses the parties call at the time of the hearing.

(c) Service. Service of all written motions shall be made in accordance with Title 8 GCA §§ 1.25 and 1.29.

(d) Motion for Reconsideration. A motion may be renewed only on the grounds of

(1) a material difference in fact or law from that presented to the court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

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SUPERIOR COURT OF GUAM**

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

**SOURCE:** CVR 7.1(i).

(e) Scheduling Order. A criminal trial scheduling order shall be issued by the assigned judge by filing CR 1.1 FORM 1, “Scheduling Order” within ninety (90) days of the case being filed setting the trial date as well as other relevant dates and such scheduling order or portions thereof shall not be vacated or changed without good cause determined by the assigned judge and described on the record orally or in writing. If a criminal case is assigned to a judge more than thirty (30) days after the case is filed, notwithstanding the standard ninety-day deadline described herein, the judge shall issue a criminal trial scheduling order using CR 1.1 FORM 1 within ninety (90) days of the date on which the case was assigned to him or her.

**SOURCE:** Administrative Rule 13-003 (2013).

(f) Extensions of Time. No continuance shall be granted merely on the stipulation of the parties. If a party is unable to comply with the established schedule despite its diligence, that party shall move for a reasonable extension of time, specifically setting forth the basis for the requested extension, which shall be considered by the court in determining good cause pursuant to subsection (e) above. Such motion shall be made as soon as practicable but, in any event, not later than the date upon which the act was to have been completed.

**SOURCE:** Proposed District Court CRLR 12(b).

(g) Oral Argument.

(1) Oral Argument Not Automatic. Oral argument may be denied at the discretion of the judge, except where oral argument is required by statute.

(2) Any party may, but is not required to, either request oral argument or submit a statement that the party represents that oral argument is not necessary by either indicating such on the notice of motion submitted pursuant to CR 1.1(b) or by filing CR 1.1 FORM 2, “Statement Re: Oral Argument and Evidentiary Hearing on Pending Motion” within three (3) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

(3) The court will set the date and time for argument or determine that oral argument is not necessary and will notify the parties using CR 1.1 FORM 3. If the date and time for oral argument are changed by the court, the court shall notify the parties using CR 1.1 FORM 3.

(4) The court, in the exercise of its discretion, regardless of whether oral argument has been requested or whether statements have been submitted suggesting that oral argument may not be necessary, may:

(A) order oral argument; or

(B) determine that argument is unnecessary.

**SOURCE:** CVR 7.1(e).

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

**APPENDIX OF FORMS**

CR 1.1 Form 1	Criminal Trial Scheduling Order
CR 1.1 Form 2	Statement re: Oral Argument or Evidentiary Hearing on Pending Motion
CR 1.1 Form 3	Notice of Hearing or Submission on Briefs

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

**IN THE SUPERIOR COURT OF GUAM**

<b>PEOPLE OF GUAM,</b>	)	Criminal Case No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>CRIMINAL TRIAL</b>
	)	<b>SCHEDULING ORDER</b>
	)	
	)	
Defendant.	)	
_____	)	

This matter came before the Honorable \_\_\_\_\_ on \_\_\_\_\_  
for a Criminal Trial Setting hearing. Assistant Attorney General \_\_\_\_\_ appeared for  
the People of Guam and Attorney \_\_\_\_\_ appeared for the Defendant.

Speedy Trial:        ☐ asserted        ☐ waived

Defendant:        ☐ confined        ☐ released

**IT IS HEREBY ORDERED** that the criminal case schedule proceed as follows:

**Discovery must be exchanged pursuant to Title 8 GCA §§ 70.10, 70.25, and 70.40.**

Motions & Witness Lists Due: \_\_\_\_\_

Oppositions to Motions Due: \_\_\_\_\_

Replies to Oppositions Due: \_\_\_\_\_

Motion to Compel Discovery by Defense Due: \_\_\_\_\_

Hearing on all Motions: \_\_\_\_\_

Pre-Trial Conference Hearing: \_\_\_\_\_

**LOCAL RULES OF THE  
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Defendant must be present at the Pre-Trial Conference hearing and counsel attending the conference should have the authority to settle the case. All exhibits must be marked and agreed upon jury instructions shall be filed. Objections to the jury instructions must be filed with reasons. If the case is settled, the change of plea will occur at this conference otherwise the change of plea must occur on or before the trial date.

Jury Selection and Trial Date: \_\_\_\_\_  
[    ] 12 [    ] 6

Bench Trial: \_\_\_\_\_

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**SO ORDERED:** \_\_\_\_\_.

\_\_\_\_\_  
Judge, Superior Court of Guam

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

**IN THE SUPERIOR COURT OF GUAM**

<b>PEOPLE OF GUAM,</b>	)	Criminal Case No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>STATEMENT RE: ORAL ARGUMENT</b>
	)	<b>OR EVIDENTIARY HEARING</b>
	)	<b>ON PENDING MOTION</b>
	)	
Defendant.	)	
_____	)	

[To be filed no later than three (3) days after filing of the last brief on the subject motion or after the time for such filing has elapsed.]

On _____,	Movant(s)
-----------	-----------

filed a motion for an order granting the following relief:

Relief Sought

With respect to said motion, the undersigned hereby:

- ☐ Requests oral argument on the motion.
- ☐ The parties have agreed that the motion should be heard on or about:  

Parties' proposed hearing date
--------------------------------
- ☐ The parties either have not agreed on a hearing date or have not discussed the matter.
- ☐ Represents that oral argument on the motion is unnecessary.
- ☐ Requests for an evidentiary hearing. Estimated time for evidentiary hearing is \_\_\_\_\_ day(s).

**RESPECTFULLY SUBMITTED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Party	
	Attorney's Signature
Attorney	



# LOCAL RULES OF THE SUPERIOR COURT OF GUAM

**IN THE SUPERIOR COURT OF GUAM**

**PEOPLE OF GUAM,**

Plaintiff,

VS.

Defendant.

Criminal Case No. \_\_\_\_\_

## NOTICE OF HEARING OR SUBMISSION ON BRIEFS

On

Movant(s)

filed a motion for an order granting the following relief:

### Relief Sought

**PLEASE TAKE NOTICE** that with respect to said motion:

Oral argument is set before the court at the following date and time:

The court has determined that oral argument is unnecessary.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Clerk/Deputy Clerk

Judge

Signature

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

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

Effective October 2, 2007

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

## **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)

MR 1.1.	Appointment of Counsel for Indigent Defendants.
MR 1.1.1.	Representation.
MR 1.1.2.	Determination of Need.
MR 1.1.3.	Manner of Appointment.
MR 1.1.4.	Investigative, Expert and Interpretative and Paralegal Services.
MR 1.1.5.	Compensation.
MR 1.2.	Post Judgment Appearance and Violations.
MR 1.3.	Calendaring by Judges.
MR 1.4.	Collection Court - Pilot Program.
MR 2.1.	Family Violence Orders of Protection.
MR 2.1.1.	Jurisdiction.
MR 2.1.2.	Petition.
MR 2.1.3.	Hearings and Notice.
MR 2.1.4.	Relief.
MR 2.1.5.	Service of Orders.
MR 2.1.6.	Standard of Review.
MR 2.1.7.	Contempt.
MR 2.1.8.	Firearms.
MR 2.1.9.	Enforcement of Orders of Protection.
MR 2.1.10.	Protective Order Registry.
MR 3.1.	Video Conferencing.
MR 4.1.	Title.
MR 4.1.1.	Purpose.
MR 4.1.2.	Scope and Application.
MR 4.1.3.	Definitions.
MR 4.1.4.	Mediation Costs and Fees.
MR 4.1.5.	Case Management Review for Mediation.
MR 4.1.6.	Attorney Certification.
MR 4.1.7.	Parties Duty to Confer and Report.
MR 4.1.8.	Mediation Referral Procedures.
MR 4.1.9.	Order for Mediation.
MR 4.1.10.	Relief from Judicially Referred Mediation.
MR 4.1.11.	Financial Accommodations for Indigent Parties.
MR 4.1.12.	Sanctions for Nonappearance of Party at Scheduled Session.
MR 4.1.13.	Conduct of Mediation.
MR 4.1.14.	Confidentiality.
MR 4.1.15.	Evidence Admissible.

MR 4.1.16.	Evidence Not Admissible.
MR 4.1.17.	Stipulate Extension of Mediation – Limited.
MR 4.1.18.	Termination or Conclusion of Mediation Services.
MR 4.1.19.	Mediator’s Statement.
MR 4.1.20.	Stipulated Judgment of Mediation – Enforcement.
MR 4.1.21.	Qualification of Mediator.
MR 4.1.22.	Standards of Conduct of Mediators.
MR 4.1.23.	Data Collection Requirements.
MR 4.1.24.	Judicial Time Standard Tolled.
MR 4.1.25.	Juvenile Proceedings.
MR 5.1.	Small Claims Rules and Procedures.
MR 6.1.	Records Retention.
MR 7.1.	Relief from Disabilities.

## APPENDIX OF FORMS

**2022 COMPILER NOTE:** Hyperlinks to online sources have been updated.

### Miscellaneous Rule 1.1 - Appointment of Counsel for Indigent Defendants

- A. Financial Declaration  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)
- B. Private Attorney Panel  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)
- C. Private Attorney Panel Application  
(available on the Judiciary of Guam website at <http://www.guamcourts.org/Indigent-Defense/Indigent-Defense.html>)

### Miscellaneous Rule 1.4 - Court Collections Program

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

### Miscellaneous Rule 2.1 - Family Violence Orders of Protections

- 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

### Miscellaneous Rule 3.1 - Video Conferencing

- 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.  
(Available on the American Arbitration Assn. website - <https://www.adr.org/Mediation>)
- B. FORMS
  - 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

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-Claims-Court/Small-Claims-Court.html>;
- or
- B. Guam Self Represented Litigants website - <http://www.guamselfhelp.org/form.asp>.

## **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 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.

(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 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 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.

(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.

(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).

#### **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 \$100.00 per hour for legal services rendered in and out of the courtroom, subject to the following maximums:

(1) Not more than \$25,000.00 shall be paid in cases where the defendant faces life imprisonment (without the imposition of an Extended Term under 9 GCA § 80.32).

(2) Not more than \$20,000.00 for First Degree Felonies other than those compensated under category (1).

(3) Not more than \$10,000.00 for Second Degree Felonies.

(4) Not more than \$7,500.00 for Third Degree Felonies.

(5) Not more than \$3,500.00 shall be paid for misdemeanors.

(6) Not more than \$3,150.00 shall be paid for habeas corpus proceedings.

(7) Not more than \$3,150.00 shall be paid for juvenile delinquency cases.

(8) Not more than \$7,500.00 for attorneys appointed in juvenile special proceedings cases or appointed to provide guardian ad litem services.

(9) Not more than \$10,000.00 shall be paid for each level of appeal in a particular case.

For First Degree Felonies in which the court appoints more than one attorney, not more than \$30,000.00 total will be paid, to be divided among the attorneys. For any other case in which the court appoints more than one attorney, the cap and hourly rates will remain the same, to be divided among the attorneys.

In the event an attorney is appointed in separate cases that are fully or partially consolidated, the attorney may not submit duplicative billings in multiple cases for the same hours worked. Instead, the attorney should divide the hours worked by the number of cases in which the hours will be claimed, and apply the appropriate fraction in the billings for each case.

Counsel appointed under these rules may apply to the Administrator of the Courts to exceed these maximums and/or contest whether the appropriate maximum has been identified for a specific case.

Counsel must demonstrate extraordinary circumstances and good cause to justify an exception to the maximums. Approval of any amount in excess of the limits herein shall be approved by the Administrator of the Courts. The Superior Court Judge presiding over the case may provide input in this regard. In determining whether the circumstances of a particular case are extraordinary, the Administrator of the Courts shall consider the following non-exhaustive list of factors:

- i. Multiple defendants
- ii. Joint or separate trials with co-defendants
- iii. Multiple incidents (including multiple victims in separate incidents)
- iv. Mistrials and re-trial(s)
- v. Substitution of trial counsel; additional trial proceedings or phases (e.g., grand jury, competency phase, sanity phase)
- vi. Multiple special circumstances
- vii. Prior convictions or unadjudicated conduct admitted at penalty phase
- viii. Prosecution's use of informants
- ix. Extensive litigation of the admissibility of evidence
- x. Forensic testing, analysis, and evidence (e.g., DNA, hair, fingerprint, blood, ballistics) introduced at trial or necessary for habeas investigation
- xi. Mentally ill or mentally impaired defendants
- xii. Non-English-speaking defendant or witnesses
- xiii. Minimal guilt and/or penalty phase investigation done for trial
- xiv. Investigation requirements in multiple locations, requiring travel
- xv. Extended elapsed time since offenses/trial
- xvi. Necessity of expert witnesses
- xvii. Necessity of using some fees to cover investigative and incidental expenses
- xviii. Length of record
- xix. Number of trial witnesses

No single factor is dispositive, and the Administrator of the Courts shall weigh all factors in determining whether the representation in any particular case is extraordinary.

(b) 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.

(c) Court Interpreter Compensation.

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

(A) \$60.00 per 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 will be paid in full even if the interpreter only works for a fraction of a Half Day Block.

(B) \$90.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.

- (C) \$16.00 per hour after 5:00 p.m., compensated at  $\frac{1}{4}$  fractions of the hour.
- (2) REGISTERED BLOCK PAY – Trial
- (A) \$80.00 per 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 will be paid in full even if the interpreter only works for a fraction of a Half Day Block.
- (B) \$110.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.
- (C) \$20.00 per hour after 5:00 p.m., compensated at  $\frac{1}{4}$  fractions of the hour.
- (3) REGISTERED NON-BLOCK PAY – Non-Courtroom Matters (office appointments/visits to the Department of Corrections)
- (A) \$28.00 per hour, compensated at  $\frac{1}{4}$  fractions of the hour.
- (4) UNREGISTERED NON-BLOCK PAY - All matters.
- (A) \$16.00 per 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 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) and Prom. Order PRM06-006-20 (Apr. 14, 2022).

## **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): _____  CHARGE/OFFENSE (describe if applicable & check box): _____ _____ _____ _____ <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;"><b>DOCKET NUMBER</b></td> </tr> <tr> <td colspan="2" style="text-align: center;">_____</td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>1 <input type="checkbox"/> Defendant - Adult</td> <td>4 <input type="checkbox"/> Provation Violator</td> </tr> <tr> <td>2 <input type="checkbox"/> Defendant - Juvenile</td> <td>5 <input type="checkbox"/> Habeas Petitioner</td> </tr> <tr> <td>3 <input type="checkbox"/> Appellant (if so, was</td> <td>6 <input type="checkbox"/> Other (specify)</td> </tr> <tr> <td colspan="2">counsel previously appointed</td> </tr> <tr> <td colspan="2">for you <input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table>	<b>DOCKET NUMBER</b>		_____		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	6 <input type="checkbox"/> Other (specify)	counsel previously appointed		for you <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>DOCKET NUMBER</b>															
_____															
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	6 <input type="checkbox"/> Other (specify)														
counsel previously appointed															
for you <input type="checkbox"/> Yes <input type="checkbox"/> No															

**ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY**

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

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

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

Are you currently receiving welfare benefits? of any kind? <input type="checkbox"/> Yes <input type="checkbox"/> 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

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

DEPENDENTS	MARITAL STATUS	Total No. of Dependents:	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			_____

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 Guam any and all documents within my possession, or within the possession for the Department of Revenue and Taxation, relating to my financial status.

SIGNATURE OF DEFENDANT (or person to be represented): \_\_\_\_\_

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

COL 06082015

**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. Cenzone-Duenas  
Thomas J. Fisher

Vincent Leon Guerrero  
Peter C. Perez  
Mark E. Williams

**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.

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

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**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.

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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.

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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.**

### **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.

### **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.

**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.

**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



**MR 1.4 Appendix B**  
**IN THE SUPERIOR COURT OF GUAM**

PEOPLE OF GUAM	)	RS-0__ - _____
	)	
Plaintiff,	)	(Criminal Case No. CF/CM_____)
	)	
vs.	)	
	)	<b>COLLECTION ORDER</b>
	)	
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**

### **MR 2.1. Family Violence Orders of Protection.<sup>2</sup>**

**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

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<sup>2</sup> **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.

the magistrate judge, or any judge available on duty.

### **MR 2.1.3. Hearings and Notice.**

#### **(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 declaration of notice is required only in cases where Respondent is represented by counsel. In cases where Respondent is represented by counsel, it shall be the duty of Petitioner's counsel to file a declaration containing the following:

(A) that a good faith effort has been made to advise counsel for all other parties, if known, of the date, time and substance of the proposed *ex parte* application or the reasons supporting the claim that notice should not be required, and

(B) the efforts to contact other counsel or the parties and whether any other counsel or party, after such advice, opposes the application or has requested to be present when the application is presented to the court, and if not filed in accordance with this rule, reasons why the *ex parte* application has not been timely filed.

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. Adopted by Prom. Order No. PRM 06-006-01 (May 3, 2007). Revised and amended by Prom. Order No. 06-006-02 (May 31, 2007), and Prom. Order No. PRM 06-006-18 (July 18, 2022).

**2022 COMPILER NOTE:** According to the Subcommittee on Rules of Civil Procedure, the amendment to subsection (a) clarifies the *ex parte* procedure for temporary orders or protection accordance with the *ex parte* procedures contained in the amendments to Rule 7.1(j).

(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.

(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);

(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.

**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).

(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.

(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

## EXHIBIT A

## IN THE SUPERIOR COURT OF GUAM

<b>ORDER TO SHOW CAUSE TEMPORARY Order of Protection</b>	Case No.	<b>PO #</b>	
	Court	<b>Superior Court of Guam</b>	
	County	<b>Hagatna</b>	State <b>GUAM</b>

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

VS.

RESPONDENT	RESPONDENT IDENTIFIERS																														
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CAUTION: ☐ 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

**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.**

## EXHIBIT B

## IN THE SUPERIOR COURT OF GUAM

<b>PRELIMINARY Order of Protection</b> <input type="checkbox"/> Amended	Case No. <span style="border: 1px solid black; padding: 2px 20px;">PO #</span> Court <span style="border: 1px solid black; padding: 2px 20px;">Superior Court of Guam</span> County <span style="border: 1px solid black; padding: 2px 20px;">Hagatna</span> State <span style="border: 1px solid black; padding: 2px 20px;">GUAM</span>
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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																														
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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 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.]

## 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

**EXHIBIT C**

**IN THE SUPERIOR COURT OF GUAM**

<b>Order of Protection</b>	Case No.	PO #		
	Court	<b>Superior Court of Guam</b>		
	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																														
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**THE COURT HEREBY ORDERS:**

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  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.]

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;
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- ☐ Joint Legal Custody to Petitioner & Respondent, with Physical Custody to ( ) Petitioner / ( ) Respondent

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**III. YOU ARE FURTHER ORDERED TO:**

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- \_\_\_\_\_ Surrender any and all firearms, firearm IDs, and firearm permits, in Respondent's control and/or possession to the Superior Court Marshals.
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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 D

## IN THE SUPERIOR COURT OF GUAM

<b>Order of Protection</b>	Case No.	<b>PO #</b>		
	Court	<b>Superior Court of Guam</b>		
	County	Hagatna	State	GUAM

<b>PETITIONER</b>	<b>PETITIONER IDENTIFIERS</b>
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**VS.**

<b>RESPONDENT</b>	<b>RESPONDENT IDENTIFIERS</b>																														
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**THE COURT HEREBY ORDERS:**

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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.]



## **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.

(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  
SUPERIOR COURT OF GUAM**

**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.

**LOCAL RULES OF THE  
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**Interpreted Proceedings**

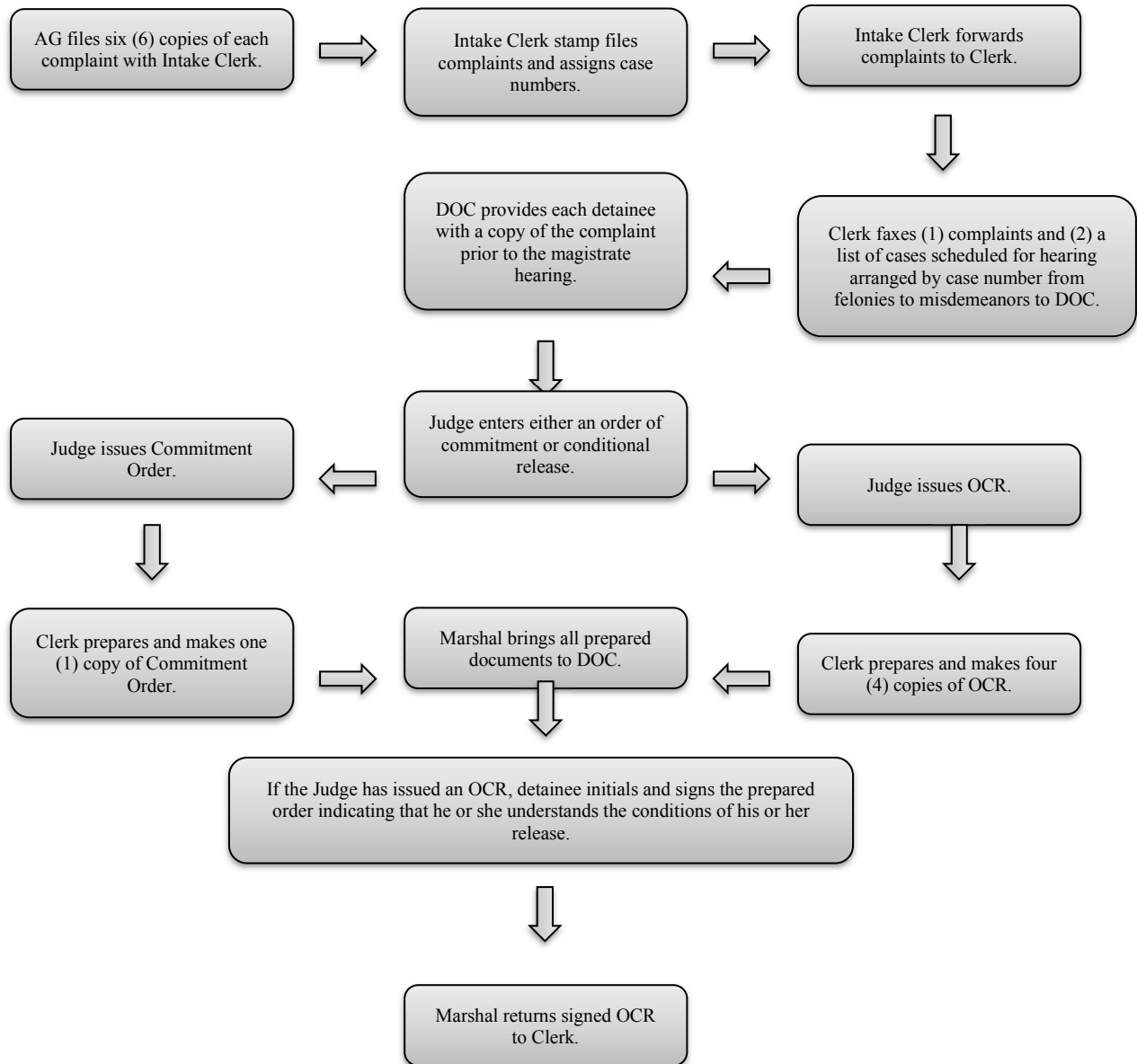
- The court may order that the interpreter be located next to the detainee during the hearing. Generally, however, the interpreter will be located in the courtroom.
- If an interpreter is necessary to explain the conditions of release contained in an OCR, one will be made available to meet with the detainee 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.

**LOCAL RULES OF THE  
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**ATTACHMENT “B”  
FLOWCHART**



**CONTACT NUMBERS:**

<b>CONTACT</b>	<b>TELEPHONE</b>
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

LOCAL RULES OF THE  
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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:

\_\_\_ o 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.

\_\_\_ o 2. **APPEARANCE:** Defendant is ordered to appear next on \_\_\_\_\_, at \_\_\_\_\_, and shall appear at all further criminal trial proceedings.

\_\_\_ o 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.

\_\_\_ o 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.

\_\_\_ o 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) \_\_\_\_\_

\_\_\_ o 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 \_\_\_\_\_.

\_\_\_ o 7. **CURFEW:** Defendant shall obey the following curfew: \_\_\_\_\_.

\_\_\_ o 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.

\_\_\_ o 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.

\_\_\_ o 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.

\_\_\_ o 11. **REPORTING:** Defendant shall report to the Probation Office o in person, o by telephone: o Weekly; o Monthly.

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\_\_\_ o 12. **TRAVEL:** Defendant must turn in his/her passport to the Probation Office. Defendant cannot leave Guam without permission of this Court.

\_\_\_ o 13. **OTHER REQUIREMENTS:** \_\_\_\_\_.

\_\_\_ o 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.

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.

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.

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.

Defendant's Name: \_\_\_\_\_

Residential Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF DEFENDANT

Hagåtña, Guam )

Subscribed and sworn and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Deputy Clerk / Deputy Marshal

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

**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.

(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.

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**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 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.

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(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.

**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.**

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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

B1. Mediation Certification

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SUPERIOR COURT OF GUAM**

- 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

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

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

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:  
\_\_\_\_\_

MR 4.1 FORM B1

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

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

☐ 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

MR 4.1 FORM B2



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

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

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:

MR 4.1 FORM B3

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

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

**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

MR 4.1 FORM B4

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

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

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

MR 4.1 FORM B5

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

## **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): \_\_\_\_\_

SOCIAL SECURITY NUMBER: \_\_\_\_\_

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

**DOCKET NUMBER**

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

☐ Felony      ☐ Misdemeanor

### **ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY**

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

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

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

	AMOUNT	TYPE OF BENEFIT
Are you currently receiving welfare benefits? of any kind? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, give the amount per month and describe the benefit. _____	\$ _____	_____

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

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

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

**DEPENDENTS** MARITAL STATUS Total No. of List persons you actually support and your relationship to them.  
☐ Single Dependents: \_\_\_\_\_  
☐ Married ( ) \_\_\_\_\_  
☐ Widowed \_\_\_\_\_  
☐ Separated or Divorced \_\_\_\_\_

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

I declare under penalty of perjury, the foregoing is true and correct. In addition, by my signature below, I hereby agree to make available to the courts of Guam any and all documents within my possession, or within the possession for the Department of Revenue and Taxation, relating to my financial status.  
**SIGNATURE OF DEFENDANT** (or person to be represented): \_\_\_\_\_

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

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

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

\_\_\_\_\_, 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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**LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM**

<b>SUPERIOR COURT OF GUAM</b>	[Reserved for Court stamp file]
<b>ORDER TO SHOW CAUSE REGARDING FAILURE TO MEDIATE</b> MR 4.1 Form B7	
<b>Plaintiff(s):</b>  <b>Defendant(s):</b>	
	<b>CASE NUMBER(S):</b>

**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

MR 4.1 FORM B7

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

<b>SUPERIOR COURT OF GUAM</b>	[Reserved for Court stamp file]
<b>MEDIATOR'S STATEMENT</b> MR 4.1 Form B8	
<b>Plaintiff(s):</b>  <b>Defendant(s):</b>	<b>CASE NUMBER(S):</b>

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: \_\_\_\_\_

MR 4.1 FORM B8



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

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

MR 4.1 FORM B9

**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.**

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

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(\$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.

(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.

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(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;

(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.

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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 matter 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 filing 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 complaint or declaration for the following: the court, the plaintiff, and each named defendant.

(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

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(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.

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

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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.

**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

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it 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 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



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\$ 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.
- (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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**MR 6.1. Records Retention.**

(a) Supreme Court of Guam. Title 7 GCA § 7120 and Miscellaneous Rule 6.1 of the Local Rules of Court govern the retention periods and disposition of court records. The record retention and disposition periods provided in this section are effective April 14, 2022, and apply to all court records in existence. Case records may be preserved on paper, microfilm, or as electronic documents. The paper records, microfilm or electronic documents are the official record of the court. The Clerk may certify a copy of the paper case records, a printed copy of microfilm or a printed electronic copy of an electronic document as a true and correct copy of the document in the record of the court.

<b>Case Type</b>	<b>Retention Period</b> (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	<b>Disposition</b>
Appellate Procedure	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Attorney Discipline	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Certified Question	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Civil Case	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Criminal Case	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Pro Hac Vice	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Promulgation Order	At least 6 months after order is entered.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.

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Writ of Habeas Corpus	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Mandamus	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Prohibition	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Certiorari	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.

(b) Superior Court of Guam. Title 7 GCA § 7120 and Miscellaneous Rule 6.1 of the Local Rules of Court govern the retention periods and disposition of court records. The record retention and disposition periods provided in this section are effective April 14, 2022, and apply to all court records in existence. Case records may be preserved on paper, microfilm, or as electronic documents. The paper records, microfilm or electronic documents are the official record of the court. The Clerk may certify a copy of the paper case records, a printed copy of microfilm or a printed electronic copy of an electronic document as a true and correct copy of the document in the record of the court.

(1) For Records Prior to 2011.

<b>Record Title</b>	<b>Retention Period</b> (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	<b>Disposition</b>
<b>A. Case Files (Paper)</b>		
Adoption (AT)	5 years	Microfilm or convert to electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Child Support (CS)	3 years	Convert complaint, final order or judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

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Civil (CV)	5 years	Convert complaint, final order, or judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Felony (CF)	7 years	Convert complaint, indictment, information, plea agreement, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Misdemeanor (CM)	7 years	Convert complaint, information, plea agreement, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Domestic (DM) 1. Divorce	5 years	Convert complaint, settlement agreement, interlocutory judgment, and final decree, or final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
2. All Others	5 years	Convert complaint, judgment, or final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Foreign Order (FO)	5 years	Convert complaint, foreign judgment, and final order; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Delinquency (JD)	5 years	Destroy pursuant to 19 GCA § 5124
Juvenile Proceedings (JP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court; Destroy pursuant to 19 GCA § 5124

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Land Registration (LR)	7 years	Convert to microfilm or electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Probate (PR)	7 years	Convert to microfilm or electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Special Proceedings (SP)	5 years	Convert petition, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Protective Order (PO)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Restitution (RS)	1 year	Convert collection order and final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Small Claims (SD)	2 years	Destroy
Traffic	2 years	Destroy
Marriages (SPM)	1 year	Destroy
<b>B. Other Records</b>	<b>Retention Period</b> (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	<b>Disposition</b>
Original Wills	Permanent	Permanent

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Exhibits	Return to party submitting after time for appeal has passed	Return to party submitting after time for appeal has passed
Jury Records		
1. Juror Lists	4 years after the master jury wheel is emptied	Destroy
2. Grand Jury Voting Sheets	3 years	Destroy
3. Trial Questionnaires	3 years	Destroy
Court Recordings		
1. Cassette Tapes	10 years	Destroy
2. DVD Audio recordings		
Search Warrants	5 years	Destroy
Docket Sheets	2 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Cardex File	2 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

(2) For Records from 2011 to Present.

<b>Record Title</b>	<b>Retention Period</b> (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	<b>Disposition</b>
<b>A. Case Files (Paper)</b>		
Adoption (AT)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

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Child Support (CS)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Civil (CV)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Felony (CF)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Misdemeanor (CM)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Domestic (DM)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Foreign Order (FO)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Delinquency (JD)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Proceedings (JP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Land Registration (LR)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Probate (PR)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Special Proceedings (SP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Protective Orders (PO)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court



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Restitution (RS)	1 year	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Small Claims (SD)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Traffic	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Marriages (SPM)	1 year	Destroy
<b>B. Other Records</b>	<b>Retention Period</b> (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	<b>Disposition</b>
Original Wills	Permanent	Permanent
Exhibits	Return to party submitting after time for appeal has passed unless electronically presented pursuant to EFR 4.12	Return to party submitting after time for appeal has passed unless electronically presented pursuant to EFR 4.12
Jury Records 1. Juror Lists	4 years after the master jury wheel is emptied	Destroy
2. Grand Jury Voting Sheets	3 years	Destroy
3. Trial Questionnaires	3 years	Destroy
Audio and electronic recordings of official court proceedings	10 years	Destroy
Search Warrants	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

**SOURCE:** Guam Bar Committee. Amended pursuant to Promulgation Order No. PRM06-006-21 (April 14, 2022).

**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

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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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**MR 7.1. Relief from Disabilities.**

(a) A person who has been involuntarily committed to a mental institution or otherwise formally adjudicated as mentally defective as defined in 27 C.F.R. § 478.11, may petition to the Superior Court of Guam for relief from the firearms prohibitions contained in 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).

(1) The relief provided under this Rule shall only be from mental health adjudications or commitments which occurred within Guam.

(2) A Petition filed under this Rule must be served upon the Attorney General of Guam, who may object to and present evidence relevant to the relief sought by the Petitioner.

(b) The Superior Court of Guam must consider the Petitioner's request 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 Disabilities under 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).

(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 Disabilities under 18 U.S.C. § 922(d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).

(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) Record of proceedings.

(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, Petitioner'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) The court must grant Petitioner's request for relief if, at the conclusion of the consideration of the evidence noted above, the court makes the following findings;

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- (1) the Petitioner 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.

(f) If the court denies relief, the Petitioner may not petition again for relief under this Rule until one (1) year after the date of the judgment.

(g) The Petitioner is entitled to *de novo* appellate review of a denied Petition in the Supreme Court of Guam.

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

(2) The Supreme Court of Guam has the discretion to receive additional evidence necessary to conduct an adequate review.

(h) After a judgment granting restoration of rights under this Section has become final and the time period for appeal has passed without an appeal being filed, the Clerk of Court of the Superior Court shall, as soon as is practicable, but in no case later than ten (10) business days after the time period for appeal has passed without an appeal being filed, forward a copy of the judgment to the Marshal of the Court. The Marshal of the Court shall within fifteen (15) business days after receipt of the judgment revise the Petitioner's record in any information database that the Judiciary of Guam makes available to the National Instant Criminal Background Check System and shall notify the United States Attorney General for the purpose of reporting to the National Instant Criminal Background Check System that the basis for the disabilities imposed by 18 U.S.C. § 922(d)(4) and (g)(4) no longer applies.

**SOURCE:** New Rule MR7.1 adopted pursuant to Promulgation Order No. PRM06-006-12 (July 23, 2010). Amended by PRM No. 06-006-19 (Apr. 14, 2022).