

SUPREME COURT OF GUAM

GUAM RULES OF APPELLATE PROCEDURES¹ **(as of December 23, 2004)**

¹ Drafted by the Supreme Court Rules Commission September 13, 1993
Approved by P.L. 23-34 (June 6, 1995);
Modified and Approved by the Supreme Court of Guam En Banc (July 15, 1996);
Amended July 27, 1999, September 2000, January 18, 2002, December 10, 2003, April 28, 2004 ;
Last amended December 23, 2004, pursuant to Promulgation Order No. 04-006

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APPENDIX OF FORMS

SUPREME COURT OF GUAM

RULES OF APPELLATE PROCEDURE

APPLICABILITY OF RULES

RULE 1 -- EFFECTIVE DATE OF RULES, SCOPE AND PRACTICE.

These rules govern procedure in appeals to the Supreme Court of Guam from the Superior Court of Guam and in other proceedings before the Supreme Court.

These appellate rules are promulgated pursuant to the *Frank G. Lujan Memorial Court Act of 1992*, as amended, Title 7 of the Guam Code Annotated. Nothing in these rules shall be construed to extend or limit the appellate jurisdiction of the Supreme Court of Guam as established by law.

The Guam Rules of Civil Procedure and the Rules of Court for the Superior Court, whenever relevant, are adopted as part of the rules of this court. Interpretations of these Rules as promulgated shall be supplied by the Supreme Court of Guam, whose authority is controlling in all courts. Interpretations of similar provisions from other jurisdictions are not binding upon the Supreme Court.

RULE 2 -- SUSPENSION OF RULES.

In the interest of justice or of expediting a decision or for other good cause shown, the Supreme Court may, except as otherwise provided in Rule 11(b) of these Rules, suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its decision.

APPEALS FROM JUDGMENTS AND ORDERS OF THE SUPERIOR COURT

RULE 3 -- APPEALS, NOTICE.

a) Filing the Notice of Appeal.

An appeal permitted by law as of right from the Superior Court to the Supreme Court shall be taken by filing a notice of appeal with the Clerk of the Superior Court within the time allowed by Rule 4 of these Rules. At the time of filing, the Appellant must furnish the Clerk of the Superior Court with sufficient copies of the notice of appeal to enable the Clerk to comply promptly with the requirements of subsection (e) of Rule 3. Additionally, the Appellant must submit to the Supreme Court a copy of the Notice of Appeal, stamp "filed" by the Superior Court. Failure of an Appellant to take any step other than the timely filing of the notice of appeal does not affect the validity of the appeal, but is ground only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal. (amended 09/2000)

b) Joint or Consolidated Appeals

If two (2) or more persons are entitled to appeal from a judgment or order of the Superior Court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or they may join in appeal after filing separate timely notices of appeal; and they may thereafter proceed on appeal as a single Appellant. Appeals may be consolidated by order of the Supreme Court or upon motion of a party or by stipulation of the parties to the several appeals.

[Gutierrez v. Charfauros, CVA00-001 \(Order Mar. 17, 2000\).](#)

c) Content of the Notice of Appeal

- (1) The notice of appeal shall:
 - (A) specify the party or parties taking the appeal; and
 - (B) shall designate the judgment, order, or part thereof appealed from.
- (2) A pro se notice of appeal is considered filed on behalf of the signer and the signer's spouse and minor children (if they are parties), unless the notice clearly indicates otherwise.
- (3) In a class action, whether or not the class has been certified, the notice of appeal is sufficient if it names one person qualified to bring the appeal as representative of the class.
- (4) An appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.
- (5) Form 1 in the Appendix of Forms is the suggested form of notice of appeal for civil appeals.

(amended 09/2000)

[Angoco v. Bitanga , CVA99-024 \(Order Oct. 5, 1999\).](#)
[People v. Crisostomo, CRA99-030 \(Order Dec. 22, 1999\).](#)

d) Denomination of Parties

The party appealing from the judgment of the Superior Court shall be denominated the Appellant; the Appellant's denomination in the proceeding in which the appeal is taken shall also be included so that the appellant will be denominated Plaintiff-Appellant or Petitioner-Appellant or Defendant-Appellant or Respondent-Appellant. All other parties shall be denominated Appellees and each Appellee's denomination in the proceeding in which the appeal is taken shall also be included so that each Appellee shall be denominated Plaintiff-Appellee or Petitioner-Appellee or Defendant-Appellee or Respondent-Appellee. Any Appellee who supports the position of an Appellant shall meet the time schedule for filing papers which is provided for that Appellant.

[Fisherman's Tavern, Inc. v. Compass Int'l, Inc., CVA99-002 \(Order Jun. 10, 1999\).](#)

e) Service of the Notice of Appeal

The Clerk of the Superior Court shall serve notice of the filing of the notice of appeal by mailing a copy thereof to counsel of record of each party other than the Appellant (or if a party is not represented by counsel, to the party at his last known address). Upon the filing of the notice of appeal, the Clerk of the Superior Court shall immediately transmit a copy of the notice of appeal and docket entries to the Supreme Court. When an appeal is taken by a defendant in a criminal case, the Clerk of the Superior Court shall also serve a copy of the notice of appeal upon him, either by personal service or by mail addressed to him. The Clerk shall also note on each copy served, the date

on which the notice of appeal was filed. Failure of the Clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or his counsel. The Clerk shall note in the docket the names of the parties to whom he mails copies, with the date of mailing.

f) Criminal Appeals

Form 1 of the Appendix of Forms is the required form for a notice of appeal in criminal cases. If this form is not followed in a criminal appeal, the Clerk of the Superior Court shall give notice to counsel for both parties that the appeal will be subject to dismissal if the information required in Form 1 is not supplied to the Supreme Court within ten (10) days, unless good cause can be shown why there has been such an omission.

RULE 4 -- APPEALS, TIMING.

a) When and How Taken

When an appeal is permitted by law from the Superior Court to the Supreme Court, the time within which an appeal may be taken in a civil case shall be thirty (30) days from the date of entry of judgment. The time within which an appeal may be taken in a criminal case shall be ten (10) days from the date of entry of judgment. A notice of appeal filed by the Government of Guam, shall be timely filed within thirty (30) days of the entry of judgment pursuant to Title 8 GCA § 130.40. Subsequent to a timely notice of appeal, any other party may file a cross-notice of appeal within fourteen (14) days from the filing date of the first notice. The cross-appeal shall be taken by filing a timely notice of cross-appeal with the Clerk of the Superior Court. A notice of appeal filed after the announcement of decision, sentence or order, but before entry of the judgment or order, shall be treated as being filed after such entry and on the date thereof. A judgment or order is entered within the meaning of this subdivision when it is entered in the civil or criminal docket and notice is given to the parties of this entry by the Clerk of the Superior Court. (amended 09/2000).

[Merchant v. Nanyo Realty, Inc., 1997 Guam 16.](#)

[Wilkinson v. Jones, CVA97-019 \(Order Jan. 6, 1998\).](#)

[Gutierrez v. Charfauros, CVA99-045 \(Order Oct. 29, 1999\).](#)

[Gutierrez v. Charfauros, CVA00-001 \(Order Mar. 17, 2000\).](#)

[Cesar v. QBE Ins. \(In'tl\), Ltd., CVA00-004 \(Order Mar. 21, 2000\).](#)

[First Union Commercial Corp. v. Guam Industrial Services, Inc., CVA00-017 \(Order Aug. 23, 2000\)](#)

[Towa Real Estate Development Co., Ltd. et al v. Pedro P. Ada et al, CVA00-023 \(Order Oct. 10,](#)

2000)

[Gill v. Siegel, 2000 Guam 10.](#)

b) Termination of Running of Time for Filing Notice of Appeal

The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the Superior Court by any party pursuant to the grounds enumerated below, and the full time for appeal fixed by this subdivision commences to run and is to be computed by entry of the following orders made upon a timely motion:

- (1) granting or denying a motion for judgment notwithstanding the verdict under Guam Rule of Civil Procedure ("GRCP") 50(b);

- (2) granting or denying a motion to amend or make additional findings of fact under GRCP 52(b) (whether or not an alteration of judgment would be required if the motion is granted);
- (3) granting or denying a motion to alter or amend judgment under GRCP 59; and
- (4) denying a motion for a new trial under GRCP 59.

A notice of appeal filed before the disposition of any of the above motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motions as provided above. No additional fees shall be required for such filing unless the case has been dismissed by order pursuant to Rule 4.1 and such order specifically waives a further filing fee. (amended 09/2000).

[Lujan v. Lujan, CVA99-014 \(Order June 9, 1999\).](#)

[Bank of Guam v. Reidy, CVA99-044 \(Order Dec. 23, 1999\).](#)

[Wakugawa v. Yi, CVA99-035 \(Order Jan. 13, 2000\).](#)

[Wakugawa v. Yi, CVA99-035 \(Order Feb. 14, 2000\).](#)

[Gutierrez v. Charfauros, CVA00-001 \(Order Mar. 17, 2000\).](#)

c) Extension of Time for Filing Notice; Excusable Neglect

Upon a showing of excusable neglect, the Superior Court may extend the time for filing the notice of appeal by any party for a period not to exceed fourteen (14) days from the expiration of the time otherwise prescribed by this subdivision. Such an extension may be granted before or after the time otherwise prescribed by this subdivision has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notices as the court shall deem appropriate. (amended 09/2000).

[Gutierrez v. Charfauros, CVA00-001 \(Order Mar. 17, 2000\).](#)

RULE 4.1 -- STATEMENT OF JURISDICTION. (Effective February 19, 1999).

Within ten (10) days after filing the notice of appeal, the Appellant shall submit a statement of jurisdiction to the court. Such statement shall contain the following: (1) the basis for claiming that the judgment or order appealed from is final or otherwise appealable; (2) the statutory basis of the court's jurisdiction; (3) the date of entry into the docket of the Superior Court of the judgment or order appealed from; (4) an attached copy of the judgment or order indicating the document's date of entry into the docket of the Superior Court of Guam; and (5) an attached copy of the judgment or order appealed from. The attached copy shall be legible to the degree that the court may verify the judgment's date of entry into the docket.

If the Appellant fails to file a statement of jurisdiction within the ten (10) day period after the filing of the Notice of Appeal, the case shall be dismissed for lack of jurisdiction. If a statement of jurisdiction, filed within the ten (10) day period after the filing of the Notice of Appeal, indicates that no final appealable judgment has been entered on the Superior Court docket, the case shall also be dismissed for lack of jurisdiction.

NOTE: GRAP 4.1 provides a window within which a final judgment may be entered so as to comply with GRAP 4. Cases not yet ripe for appeal, which are dismissed pursuant to GRAP 4.1, may be re-filed pursuant to GRAP 4.

(amended 09/2000).

[*Bank of Guam v. The Banking Board of Guam, CVA99-036 \(Order Oct. 29, 1999\).*](#)

RULE 5 -- RELEASE IN CRIMINAL CASES.

a) Release Entered Prior to a Judgment of Conviction

An appeal from an order by the Superior Court refusing or imposing conditions of release shall be determined promptly, and the Superior Court shall state in writing the reasons for the action taken. The question of defendant's release on bail shall be heard after reasonable notice to the Appellee, upon such papers, affidavits and portions of the record as the parties may present. Normally, a motion for reconsideration of bail should be first made in the Superior Court. The Supreme Court may order the release of the defendant if it appears that the provisions and criteria of the Guam Criminal Procedure Code (Title 8, Guam Code Annotated §40.85) relating to release on bail have not been satisfied. Decisions by the Supreme Court pursuant to this rule are effective immediately upon issuance. (amended 09/2000).

b) Release Pending Appeal from Judgment of Conviction

Application for release after a judgment of conviction shall be made in the first instance in the Superior Court. If the Superior Court refuses release pending appeal, or imposes conditions of release, the court shall state in writing the reasons for the actions taken. Thereafter, if an appeal is pending in the Supreme Court, a motion for release or for modifications of the conditions of release, pending review may be made to the Supreme Court. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the Appellee. The Supreme Court may order the release of the defendant, pending appeal, if it appears that the provisions and criteria of the Guam Criminal Procedure Code (Title 8, Guam Code Annotated §40.85) relating to release on bail have not been satisfied. Decisions by the Supreme Court pursuant to this rule are effective immediately upon issuance. (amended 09/2000).

RULE 6 -- MOTIONS.

a) Content of Motions; Response; Reply

Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Motions shall not be submitted with colored covers. Any party may file a response in opposition to a motion other than one for a procedural order [for which see subsection (b)] within seven (7) days after service of the motion, but motions authorized by Rules 5, 12, and 23(b) of these Rules may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion. A party choosing not to respond to a motion shall file a statement of non-opposition within (7) seven days after service of the motion

unless the parties stipulate to or the moving papers otherwise indicate non-opposition by the non-moving party. (amended 09/2000).

[Nededog v. Ikeda, CVA99-041 \(Order Jan. 27, 2000\).](#)

b) Determination of Motions for Procedural Orders

Notwithstanding the provisions of subsection (a) of this Rule as to motions generally, motions for procedural orders including any motion under Rule 11(b) of these Rules, may be acted upon at any time, without awaiting a response thereto. Any party adversely affected by such action may by application to the court request reconsideration, vacation or modification of such action. Procedural matters incident to an appeal and other matters requiring determination pending decision on the merits may be delegated to a Justice or to a panel of the Supreme Court of Guam for resolution. Procedural motions, including requests for extensions of time or other scheduling matters, may be delegated to the Clerk of the Supreme Court. (amended 09/2000).

c) Voluntary Dismissal

(1) Voluntary Dismissal in the Superior Court

If an appeal has not been docketed, the appeal may be dismissed by the Superior Court upon the filing in that court of a stipulation for dismissal signed by all the parties or upon motion and notice by the Appellant.

(2) Voluntary Dismissal in the Supreme Court

If the parties to an appeal or other proceeding shall sign and file with the Clerk of the Supreme Court an agreement that the proceedings be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the Clerk shall enter the case dismissed, but no mandate or other process shall issue without an order of the court. An appeal may be dismissed on motion of the Appellant on such terms as may be agreed upon by the parties or fixed by the court.

(3) Motions or Stipulations for Voluntary Dismissal of Criminal Appeal

Motions or stipulations for the voluntary dismissal of a criminal appeal shall, if made or joined in by counsel for Appellant, be accompanied by Appellant's personal written consent thereto.

(4) Effective Date of Voluntary Dismissal

Dismissals shall be effective upon order of the court.

d) Motions by Appellee for Dismissal of Criminal Appeal

Where a motion is made by an Appellee to dismiss a criminal appeal, copies of the motion and supporting papers shall be served upon both the Appellant and his counsel, if any. If the ground of such motion is failure to prosecute the appeal, Appellant's counsel, if any, shall respond thereto within seven (7) days, stating why the appeal has not been prosecuted and advising whether he is retained or court-appointed counsel.

e) Required Recitals in Motions in Criminal Appeals

Any motion in an appeal in a criminal proceeding shall contain a recital as to any previous applications for the relief sought and as to the bail status of the defendant.

f) Emergency Motions

Whenever a movant requests expedited action upon a motion on the ground that, to avoid irreparable harm, relief is needed in less time than would normally be required for the Court to receive and consider a response, the word "Emergency" shall precede the title of the motion. The motion shall include the telephone numbers and office addresses of moving and opposing counsel, and it shall be accompanied by an affidavit, served upon opposing counsel, containing factual recitals showing the nature of the emergency. The motion shall state whether all grounds advanced in support thereof were submitted to the Superior Court, and, if any grounds relied upon have not been submitted to the Superior Court, why the motion should not be remanded to the Superior Court for consideration.

Prior to filing an emergency motion, the movant shall make every practicable effort to notify the Clerk at the earliest time there is an indication that urgent relief from this Court will be sought. The movant shall also make every practicable effort to notify opposing counsel in such a manner and at such time that counsel can respond to the motion. An affidavit shall be attached to the motion stating when and how opposing counsel was notified; or, if opposing counsel was not notified, stating why it was not practicable to notify counsel in such a manner and at such time that counsel could respond to the motion.

[Pangelinan v. Gutierrez, CVA99-020 \(Order Apr. 11, 2000\).](#)

RULE 7 -- THE RECORD ON APPEAL.

a) Composition of the Record on Appeal

The original papers and exhibits filed in the Superior Court, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the Clerk of the Superior Court shall constitute the record on appeal in all cases.

b) The Transcript of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Transcript is Ordered

(1) Within ten (10) days after filing the notice of appeal, the Appellant shall order in writing from the Clerk of the Superior Court a transcript of such parts of the proceedings not already on file as he deems necessary for inclusion in the record. Appellant shall serve a copy of the request for transcripts upon both the Appellee and the Supreme Court within one (1) day after filing with the Superior Court. An Appellant shall not be permitted to order transcripts after the ten (10) day period without leave of court. (amended 09/2000).

If an Appellant is proceeding on appeal in forma pauperis pursuant to Rule 9(a) of these Rules, the Appellant shall, within ten (10) days after filing the notice of appeal, submit to the Supreme Court for the Chief Justice's approval, his request to order transcript on the prescribed form entitled "Authorization & Voucher for Payment of Transcript." The form shall be furnished by the Clerk of the Supreme Court upon request of Appellant. The Appellant shall then, within ten (10) days after filing the notice of appeal, transmit the

original approved form to the Clerk of the Superior Court, together with his written request for transcript. The Clerk of the Supreme Court shall retain a copy of the approved form.

If no transcripts are to be ordered in either a civil or criminal appeal, the Appellant shall file a certificate to that effect in both the Superior Court and the Supreme Court within ten (10) days after filing the notice of appeal.

[*People v. Quintanilla*, CRA99-029 \(Order Jan. 25, 2000\).](#)

[*Casas De Saranidad Homeowners Assoc. v. Gutierrez*, CVA00-002 \(Order Mar. 29, 2000\).](#)

(2) If the Appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, he shall include in the record a transcript of all evidence relevant to such finding or conclusion. If errors of law are raised by Appellant, all relevant sections of the record shall be transcribed.

Trial transcripts are not to include pretrial motions, hearings, opening or closing statements, voir dire, or jury instructions unless reasonably necessary to address appellate issues identified in an affidavit filed with this court and served upon counsel. Record portions which are not relevant to the identified issues shall be omitted.

(3) Unless a transcript of the entire proceedings below is ordered by Appellant; including pretrial motions, hearings, opening and closing statements, the voir dire and the jury instructions, he shall file and serve on the Appellee a description of the parts of the transcript which he intends to include in the record and a statement of the issues he intends to present on appeal. Such description shall be filed with the Clerk of the Superior Court and served on the Appellee within ten (10) days after the filing of the notice of appeal.

If the Appellee deems the transcript of other parts of the proceedings to be necessary he shall, within ten (10) days after the service of the Appellant's statement, file in the Superior Court and serve on the Appellant and this court a request for additional transcripts. The Clerk of the Superior Court will forward a copy of the Appellee's request for additional transcripts to the Senior Court Reporter who will ensure that those portions are transcribed. Unless otherwise provided by the court, each party will be responsible for the transcription costs associated with their transcripts. Any further request for transcripts shall be by leave of court for good cause shown. Appellee shall serve a copy of the request for transcripts upon both the Appellant and the Supreme Court.

If any party believes that another has abused the power to request transcripts provided above to his prejudice, he may move the court for an order altering the scope of the transcript, or, if applicable, an order shifting costs of transcription, or both.

The parties shall order only that portion of the transcript which is reasonably necessary to advance the appeal. Generally, such peripheral matters as pretrial motions, pretrial briefs, continuances, etc., should not be included. The Supreme Court may impose cost sanctions against an individual attorney who unreasonably orders portions of the record which are not reasonably necessary to the appeal. (amended 09/2000).

(4) At the time of ordering, a party must make satisfactory arrangements with the Clerk of the Superior Court for payment of the costs for the transcript.

c) Statement of the Evidence of Proceedings When No Report Was Made or When the Transcript is Unavailable

(1) If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the Appellant may prepare a statement of the evidence of the proceedings from the best available means, including his recollection. The statement shall be served on the Appellee who may serve objections or propose amendments thereto within ten (10) days after service. Thereupon, the statements and any objections or proposed amendments shall be submitted to the Superior Court for settlement and approval, and as settled and approved shall be included by the Clerk of the Superior Court in the record on appeal.

(2) In the event that the court reporter for the Superior Court of Guam is unable to timely prepare the transcript, such inability shall not constitute unavailability within the meaning of this Rule.

d) Agreed Statement as a Record on Appeal

In lieu of having the appeal heard on the papers and transcripts described in subsection (b) of this Rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the Superior Court and setting forth only so many of the facts averred and proved or sought to be proved as essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as the Court may consider necessary to fully present the issues raised by the appeal, shall be approved by the Superior Court and shall then be certified to the Supreme Court as a record on appeal and transmitted thereto by the Clerk of the Superior Court within the time provided by subsection (e)(1) of this Rule.

e) Preparation of the Transcripts and the Record.

(1) In all appeals, the filing date for the ordered transcript shall be forty (40) days after the filing of the notice of appeal unless the time is shortened or extended as set forth under subsection (j) of this Rule.

(2) The Clerk's record shall be assembled by the Clerk of the Superior Court in sequence according to filing dates, with a certified copy of the docket sheet at the beginning. The papers so assembled shall be bound in a volume or volumes with each document individually tabbed showing the number corresponding to the Superior Court docket entry and shall be suitably indexed. (amended 09/2000)

f) Filing and Custody of the Record

The original record shall remain in the custody of the Clerk of the Superior Court for the use of the parties in preparing their briefs. Upon the filing of the reporter's transcript, or upon the receipt of a certificate that no trial transcript will be ordered, the Clerk of the Superior Court shall file a certificate with the Clerk of the Supreme Court stating that the record (i.e., transcript or certificate that no transcript is ordered) is ready for the purposes of the appeal.

The Clerk of the Superior Court shall prepare and transmit the record to the Supreme Court within fourteen (14) days of receipt of the Appellee's/Respondent's Rule 13(a)(1) designation of the Clerk's record, but no later than fourteen (14) days after the date of the filing of the Appellee/Respondent's

brief. However, the record should be immediately transmitted at any time upon notice by the Supreme Court in a particular case. (amended 09/2000)

Two (2) certified copies of such record shall be transmitted unless the Supreme Court orders additional copies. The cost of reproducing the record shall be borne by the party who has designated the portions to be transmitted. Additional copies of the record requested by the Supreme Court shall be provided at Appellant's expense.

If the bound volume or volumes of the record have not been prepared in substantial compliance or conformity with this Rule, the Clerk of the Supreme Court shall return them for correction.

In appeals *in forma pauperis*, the cost of reproducing copies of the original record to be transmitted shall be borne by the Superior Court.

g) Custody of Exhibits

Documentary exhibits and all physical exhibits not designated by the parties shall be retained in the custody of the Clerk of the Superior Court until requested by the Supreme Court.

h) Copies of the Record for Personal Use

Parties shall arrange with the Clerk of the Superior Court for copies of the Clerk's record needed for their own use, and with the reporter for copies of the transcript needed for their own use.

i) Reproduction of the Transcript of Proceeding

The original transcript of the proceeding(s) shall be transmitted to the Supreme Court of Guam as part of the record on appeal by the Clerk of the Superior Court of Guam once it has been supplied by the court reporter as required by subsection (e)(1) of this Rule.

The original transcript of proceedings shall be suitably indexed and consecutively numbered throughout by the court reporter. The index shall refer to the number of the volume, as well as the page and shall be placed in the first volume.

In appeals *in forma pauperis*, the cost of reproducing the transcript for the Appellant shall be borne by the Supreme Court of Guam; in all other cases, the cost of reproduction shall be at Appellant's expense.

j) Extension of Time for Transmission of the Transcript; Reduction of Time, Expedited Transcript

(1) Transcript

In the event that the court reporter for the Superior Court is unable to transmit the transcript of proceedings to the Supreme Court within forty days of the filing of notice of appeal, as required under 7(e)(1) of these Rules, the court reporter shall file a declaration with the Clerk of the Supreme Court indicating the date that the transcript is due, the reason the transcript will not be prepared, and the date by which the court reporter believes the transcript will be completed.

The court reporter shall, at the time of the filing of the declaration, serve copies of the declaration on counsel for all parties to the appeal.

Upon the filing of the declaration, the time period for transmitting the transcript shall automatically be extended until the date on which the court reporter has specified the transcript will be ready, but in no event shall the extension be for more than forty five (45) days.

The court may, sua sponte, or on the motion of any party duly served and noticed, shorten the period of extension provided for under this Rule.

(2) Expedited Transcript

In the event that an expedited transcript is needed by the parties, and the court reporter for the Superior Court is unable to prepare the transcript on an expedited basis, or in the event that the court reporter for the Superior Court declares that the transcript cannot be prepared within forty five (45) of the original due date, any party to the appeal may move this court for leave to have the transcript prepared by a person other than a court reporter for the Superior Court. The party making such a request shall identify the person who will prepare the transcript, describe that person's qualifications and provide an estimated date by which the transcript will be completed.

Upon the issuance of an order of this Court authorizing the transcript to be prepared by a person other than a court reporter for the Superior Court, the party who had requested such an order shall be responsible for obtaining duplicate copies of the trial tapes from the Superior Court and for transmitting those tapes to the person who will be preparing the transcript. Said party shall also be responsible for the costs of preparing duplicate trial tapes and the cost of the transcript, unless this Court, upon application of any party, direct that such costs be apportioned in a different manner.

In the event that a transcript is prepared by a person other than a court reporter for the Superior Court, the person preparing the transcript shall execute a declaration, in such form as may be prescribed by the Clerk of Superior Court, setting forth that person's qualifications and certifying that the transcript is accurate.

When a transcript has been prepared by a person other than a reporter for the Superior Court, upon completion, the person preparing the transcript shall deliver the transcript to the party who had requested the transcript and that party shall forthwith file the transcript with the Clerk of the Superior Court.

When a transcript is prepared by a person other than a court reporter for the Superior Court, if a dispute arises as to the accuracy of any portion of such a transcript, the disputed portion shall be submitted to the chief reporter for the Superior Court, who shall thereupon compare the transcript with the original trial tapes. Following such review, the reporter for the Superior Court shall certify either that the transcript is accurate or, that the transcript does not comport with the trial tapes, in which event the court reporter for the Superior Court shall issue a corrected transcript, as to those parts of the original transcript found to be inaccurate, and shall file a report with the Clerk of Court. A report so filed by the court reporter for the Superior Court shall be transmitted to the Supreme Court as part of the record on appeal. The cost of preparing the corrected transcript will be borne by the party who moved to have the

transcript prepared by a non-Superior court reporter unless this Court directs that such cost be apportioned in a different manner.

[Navarro v. Navarro, CVA99-028 \(Order Jan. 28, 2000\).](#)

(3) Agreed Statement

The time period in which to file an agreed statement pursuant to subsection (d) of this Rule is within forty (40) days of the date of the filing of the notice of appeal. The parties may obtain an extension of time not to exceed twenty (20) days, by submitting a request in writing to the Clerk of the Supreme Court. If the Clerk determines that the application is timely made, and that there have been no other extensions of time previously granted, the Clerk may authorize an extension of time, not to exceed twenty (20) days, in which the parties are to file an agreed statement of facts.

All other extensions or reduction of time shall be by motion as provided under these Rules.

k) Duty of Appellant

It shall be the duty of the Appellant to make certain that the employees of the Superior Court prepare the record, including the transcripts, in a timely manner. In the event that a motion for extension of time, which should have been made by the court reporter or the Clerk of the Superior Court, is not made in a timely fashion, the Appellant shall not later than ten (10) days after such date, notify this court that the deadline for the court reporter or Clerk of the Superior Court to do an act in furtherance of the preparation of the record has expired and that the court reporter or Clerk has failed to request an extension of time. The Court shall thereupon issue such order, and set such schedules, as it deems necessary to ensure the prompt preparation of the record. (amended 09/2000).

l) Record for Motions or Orders Prior to Hearing the Appeal in the Supreme Court

If prior to the time the record is transmitted, a party desires to make in the Supreme Court a motion for dismissal, for release, for a stay pending appeal, for additional security on the bond of appeal or on a supersedeas bond, or for any intermediate order, the Clerk of the Superior Court at the request of any party shall transmit to the Supreme Court such copies of the original record as any party may designate.

m) Dismissal

If an Appellant fails to file a timely record or otherwise comply with this rule, the appeal may be subject to dismissal by the Supreme Court.

RULE 8 -- DOCKETING THE APPEAL; FILING OF THE RECORD.

a) Docketing the Appeal

At the time of filing the notice of appeal in the Superior Court, the Appellant shall pay to the Clerk of the Supreme Court a docket fee of Two Hundred Fifty Dollars (\$250.00). Upon receipt of the notice of appeal in the Supreme Court, the Clerk shall thereupon enter the appeal upon the docket. If the Appellee chooses to file a cross-appeal, at the time of filing the notice of cross-appeal in the Superior Court, the Appellee/Cross-Appellant shall pay to the Clerk of the Supreme Court a docket

fee of Two Hundred Fifty Dollars (\$250.00). (amended 09/2000).

An appeal shall be docketed under the title given to the action in the Superior Court, with the Appellant identified as such. If such title does not contain the name of the Appellant, his name, identified as Appellant shall be added to the title.

b) Filing of the Record

Upon receipt of the certificate of record from the Superior Court stating that the transcript was completed or certifying that no transcript was ordered and after the appeal has been timely docketed, the Clerk of the Supreme Court shall file the certificate of record. The Clerk shall immediately give notice to all parties of the date on which the certificate of record (i.e., transcript or certificate that no transcript was ordered) was filed and of the briefing schedule for the filing and serving of briefs. (amended 09/2000).

c) Dismissal for Failure of Appellant to Cause timely Transmission of the Docketed Appeal

(1) Civil Cases

If the case is not docketed at the prescribed time [See Rule 8(a)], the Clerk of the Supreme Court shall, upon receipt of the copy of the notice of appeal transmitted by the Superior Court, give notice to counsel for both parties that the appeal will be subject to dismissal if the prescribed docket fee of \$250.00 is not received within ten (10) days of the filing of the Appellant's Notice of Appeal or within ten (10) days of the filing of the Appellee/Cross-Appellant's filing of a Notice of Cross-Appeal. If the Appellant desires to proceed in forma pauperis, he must comply with Rule 9(a) of these Rules within ten (10) days of the Clerk's notice. (amended 09/2000).

(2) Criminal Cases

If the case is not docketed at the prescribed time [See Rule 8(a)], the Clerk of the Supreme Court shall, upon receipt of the copy of the notice of appeal transmitted by the Superior Court, give notice to Appellant and counsel for both parties that the appeal will be subject to dismissal, if:

(A) The required docket fee of \$250.00 is not received within ten (10) days of the filing of the Notice of Appeal; or (amended 09/2000).

(B) Where the Appellant or Appellee is indigent,

(i) A motion to proceed on appeal in forma pauperis which shall include a supporting affidavit by Appellant, is not filed in the Supreme Court within ten (10) days of the filing of the Notice of Appeal as required by Rule 9(a) of these Rules, and

(ii) A motion and order for appointment of counsel are not filed in the Supreme Court within ten (10) days of the filing of the Notice of Appeal as required by Rule 9(b)(1)(C) and 9(b)(2)(C) of these Rules.

(amended 09/2000).

(3) Enlargement of Time for Docketing Appeal

The Supreme Court may, upon motion for good cause shown, enlarge the time for docketing the appeal or permit the appeal to be docketed out of time.

(4) Dismissal for Failure to Docket Appeal

If the Appellant has failed to docket his appeal within the ten (10) day period or any extension period granted by this court, the court may dismiss the appeal sua sponte or the Appellee may file a motion to dismiss. The Appellee's motion shall be supported by a certificate of the Clerk of the Superior Court showing the date and substance of the judgment or order from which the appeal was taken, and the date on which the notice of appeal was filed. Copies of the motion and supporting papers shall be served upon both the Appellant and his counsel, if any, and the motion shall also include proof of service. Appellant's counsel, if any, shall respond thereto within seven (7) days, stating why the appeal has not been docketed and advising whether he is retained or court-appointed counsel. The Clerk shall docket the appeal for purpose of permitting the court to entertain the motion without requiring payment of the docket fee, but the Appellant shall not be permitted to respond without payment of the fee unless he is otherwise exempt therefrom.

[Maquera v. Weeks, CVA99-022 \(Order July 26, 1999\).](#)

RULE 9 -- PROCEEDINGS IN FORMA PAUPERIS; APPOINTMENT OF COUNSEL; WITHDRAWAL AS RETAINED OR APPOINTED COUNSEL; COMPENSATION.

a) Leave to Proceed on Appeal in Forma Pauperis from the Superior Court to the Supreme Court

A party to an action in the Superior Court who desires to proceed on appeal *in forma pauperis* shall, within ten (10) days after the filing of the notice of appeal, file in this court a motion for leave to so proceed, together with a supporting affidavit, showing, in the detail prescribed by Form 2 attached hereto entitled "Application to Proceed *in Forma Pauperis*, Supporting Documentation and Order," his inability to pay fees and costs or to give security therefor, his belief that he is entitled to redress, and a statement of the issues which he intends to present on appeal. (Form 2 is available at the Clerk's Office upon request). If the motion is granted, the party may proceed without prepayment of fees or costs in the Supreme Court or the giving of security therefor. If the motion is denied, the Supreme Court shall state in writing the reasons for the denial. (amended 09/2000)

[Maquera v. Weeks, CVA99-022 \(Order June 26, 1999\).](#)

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b) Appointment of Counsel**(1) Cases in Which Counsel Was Not Appointed in the Superior Court of Guam****(A) Application**

This subsection applies to all appeals in which a party: (amended 09/2000)

- (i) was charged with a felony or misdemeanor (other than a petty offense as defined in section 1.18(e) of 9 GCA), or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor, or with a violation of probation, or (amended 09/2000)
- (ii) who is under arrest, when representation is required by law, or
- (iii) for whom the Sixth Amendment to the Constitution as incorporated by section 1421b(g) of Title 48 of the United States Code required the appointment of counsel, or
- (iv) for whom, in a case in which he faced a loss of liberty, any federal or local law required the appointment of counsel, and in which the party proceeds on appeal *in pro per*. (amended 09/2000)

In every such case, the Clerk of the Supreme Court, when he receives a copy of the notice of appeal, shall notify the party that he is entitled to be represented by counsel on appeal and that, if he is financially unable to obtain counsel, the Supreme Court will appoint counsel. Such notice shall be accompanied by a copy of Form 2 attached hereto and entitled "Application to Proceed *in Forma Pauperis*, Supporting Documentation and Order" and the Clerk shall advise the party that, if he desires to proceed on appeal *in forma pauperis* he shall complete the form, swear to it before an officer authorized to administer oaths, and return it to the Clerk. Upon receipt of the completed Form 2 from the party, the Clerk shall submit the form to the Chief Justice for his approval. Immediately after the Chief Justice has approved the party's application to proceed *in forma pauperis*, the Clerk shall appoint counsel to represent the party unless the party executes a waiver of appointment of counsel as set forth in subsection (B) of Section (b)(1) of this Rule. (amended 09/2000)

(B) Waiver

The Clerk shall also notify the party that if the party does not desire the appointment of counsel, he shall so advise the Court, by filing with the Clerk a written statement to that effect, signed by the party. (amended 09/2000)

(C) Other Appeals

In any other case in which a party desires the appointment of counsel under federal or local law, he shall so advise the Clerk of the Supreme Court, complete attached Form 2 entitled "Application to Proceed *in Forma Pauperis*, Supporting Documentation and Order" as above provided, and forward it to the Clerk. The

Clerk shall send the form to any party who seeks appointment of counsel and does not, at the same time, file the form. (amended 09/2000)

(2) Cases in which the party had retained or court-appointed counsel in the Superior Court of Guam

In all cases of the types described in subsection (A) of Section (b)(1) of this Rule, in which a person had retained or court-appointed counsel in the Superior Court and desires to proceed on appeal, it shall be the duty of such retained or court-appointed counsel (amended 09/2000)

(A) To file a notice of appeal in the Superior Court of Guam if his client desires to appeal;

(B) To take all steps required by these Rules to perfect and prosecute the appeal.

(C) Trial Counsel may withdraw as counsel of record and a party may discharge his/her counsel of record only upon motion and an order of this Court. Prior notice of the motion shall be given to the client, or the counsel, as the case may be. The motion must be supported by good cause. Counsel's withdrawal is only effective upon order of the court. (amended 09/2000).

[People v. Bellard, CRA99-024 \(Order Nov. 4, 1999\).](#)

[People v. Guerrero, CRA99-025 \(Order Sept. 20, 1999\).](#)

[People v. Jung, CRA00-004 \(Order Apr. 26, 2000\).](#)

(D) To apply for leave to permit a party to proceed on appeal, if the person appealing is financially unable to obtain representation on appeal, *in forma pauperis* in accordance with Rule 9(a) of these Rules, and to apply for the appointment of counsel by filing with the Clerk of the Supreme Court, not later than ten (10) days after the notice of appeal is filed, a motion and order requesting for the appointment of counsel. (amended 09/2000).

(3) Compensation and Reimbursement for Court-Appointed Counsel

Compensation, reimbursement and filing of claims for court-appointed counsel shall be made as follows: Court-appointed counsel shall receive sixty-five dollars (\$65.00) per hour for in-court time and forty-five dollars (\$45.00) per hour for preparation time. Such counsel may only claim up to two thousand two-hundred and fifty dollars (\$2,250.00) for the appeal, unless good cause is shown to the Chief Justice. Good cause may be established through submission of a written request to the Clerk outlining the circumstances surrounding counsel's request to be compensated over the two thousand two-hundred and fifty dollar (\$2,250.00) cap. Written authorization or denial will be provided to counsel. (amended 09/2000).

[People v. Mariano, CRA98-009 \(Order Nov. 30, 1998\).](#)

a) Filing

Papers required or permitted to be filed in the Supreme Court shall be filed with the Clerk. Filing may be accomplished by mail addressed to the Clerk, but filing shall not be timely unless the papers are received by the Clerk within the time fixed for filing, except that briefs and appendices shall be deemed filed on the date of receipt by the Supreme Court.

Unless otherwise specified by rule, an original and three (3) copies of all documents shall be filed with the court.

(amended 09/2000).

[Perez v. Gutierrez, CVA98-035 \(Order May 4, 1999\).](#)

b) Service of all Papers Required

Copies of all papers filed by any party and not required by these rules to be served by the Clerk shall, at or before the time of filing, be served by a party or person acting for him on all parties to the appeal or review. Service on a party represented by counsel shall be made on counsel.

c) Manner of Service

Service may be personal or by mail. Personal service includes delivery of the copy to an employee or other responsible person at the office of counsel. Service by mail is complete on mailing.

d) Proof of Service

Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed. The Clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed within one business day.

e) Rules Regarding Filing by Facsimile Transmission

(1) There shall be a \$5.00 transmission fee. In addition, for documents (motions, applications, or petitions) requiring copies, there shall be a fee of \$1.00 for each page copied. If a document must be re-transmitted, for whatever reason, additional transmission fees will be charged for each re-transmission.

(2) Facsimile transmissions will be accepted and filed by the Clerk of the Court during the working day. Facsimile transmissions received after 4:30 p.m. will be filed the following business day. Facsimile transmissions received on or before 5:00 p.m. of the due date will be filed on the day received. Facsimile transmissions received after 5:00 p.m. of the due date will not be considered timely filed.

(3) Documents over 10 pages in length, excluding the cover sheet, will not be filed or served by the facsimile machine process.

(4) The Clerk shall file stamp the facsimile copy as an original and the signature on the copy shall constitute the required signature.

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- (5) All filings must be accompanied by a cover sheet stating the title of the document, the sender, the number of pages, the case caption and appeal number, the name of the parties, the number of copies the Clerk must make, and any other pertinent filing instructions.
- (6) Unless otherwise permitted by the court, the Clerk of this court is not required to respond to facsimile inquiries to verify the receipt of a facsimile transmission. The Clerk may so respond to telephone inquiries.
- (7) Except when simultaneous filings are required, e.g., Rule 6 (a), when a brief, excerpt of record, or memorandum is thereafter filed in support of a document filed by a facsimile, each copy of the brief, excerpt of record, or memorandum shall have attached to it a copy of the motion, application or petition that was filed by the facsimile process.
- (8) All facsimile copies must be clear and legible. The Clerk will notify the sender by telephone that the copies transmitted were not clear and legible and that the sender must re-transmit. What is clear and legible shall be determined solely by the Clerk of this Court. When the Clerk must notify counsel and/or parties who are off-island, the Clerk will call collect.
- (9) Any amendments to a filing require re-transmission of the entire filing, as amended. Single page corrections by facsimile will not be accepted.
- (10) Original documents must be received by the Clerk within fourteen (14) days of the filing of the facsimile transmission. At the time of submitting the original documents, the party submitting shall pay the fees due hereunder. If originals are not timely submitted, and/or fees are not timely paid, the documents transmitted by facsimile will not be considered proper filings, and the court may make such orders as are just, including but not limited to an order striking papers, staying further proceedings until compliance is complete, or dismissing the proceeding, or any part thereof. Upon receipt of the original document and payment of all fees, the Clerk shall destroy the facsimile copy except the page where the file stamp appears.

RULE 11 -- COMPUTATION AND EXTENSION OF TIME.

a) Computation of Time

In computing any period of time prescribed by these rules, by an order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, a Sunday, a legal holiday or when the court is closed, in which event a period extends until the end of the next day which is not a Saturday, a Sunday, a legal holiday or when the court is closed. When the period of time prescribed or allowed is fewer than seven (7) days, intermediate Saturdays, Sundays, legal holidays and when the court is closed shall be excluded in the computation. As used in this rule, "Legal Holiday" includes New Year's Day, Martin Luther King's Birthday, President's Day, Guam Discovery Day, Good Friday, Memorial Day, Independence Day, Liberation Day, Labor Day, Columbus Day, All Souls Day, Veterans Day, Thanksgiving Day, Our Lady of Camarin Day, Christmas Day, every day on which an election is held throughout Guam (except for elections to the Youth Congress), and any other day appointed as a holiday by the President, the Congress of the United States or the Government of Guam. (amended 09/2000).

b) Enlargement of Time

The Supreme Court for good cause may upon motion enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time; but the court may not enlarge the time for filing a notice of appeal, a petition for allowance, or a petition for permission to appeal.

c) Additional Time after Service by Mail

Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon him and the paper is served by mail, three (3) days shall be added to the prescribed period.

RULE 12 -- STAY OR INJUNCTION PENDING APPEAL.**a) Stay Must Ordinarily Be Sought in the First Instance in Superior Court; Motion for Stay in Supreme Court**

Application for a stay of the judgment or order of the Superior Court pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal must ordinarily be made in the first instance in the Superior Court. A motion for such relief may be made to the Chief Justice of the Supreme Court, but the motion shall show that application to the Superior Court for the relief sought is not practicable, or that the Superior Court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the Superior Court for its action. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements or copies thereof. With the motion shall be filed such parts of the record as are relevant. Reasonable notice of the motion shall be given to all parties.

b) Stay May Be Conditioned Upon Giving of Bond; Proceedings Against Sureties

Relief available in the Supreme Court under this rule may be conditioned upon the filing of a bond or other appropriate security in the Superior Court. If security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the Superior Court and irrevocably appoints the Clerk of the Superior Court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion in the Superior Court without the necessity of an independent action. The motion and such notice of the motion as the Superior Court prescribes may be served on the Clerk of the Superior Court, who shall forthwith mail copies to the sureties if their addresses are known.

c) Stay of Execution in Criminal Cases

(1) Imprisonment

A sentence of imprisonment shall be stayed if an appeal is taken and the defendant is released pending disposition of an appeal pursuant to Rule 5(b) of these Rules.

(2) Fine

A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the Superior Court or by the Supreme Court upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the Superior Court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating his assets.

(3) Probation

An order placing the defendant on probation may be stayed by the Superior Court or by the Supreme Court if an appeal is taken. If not stayed, the court shall specify when the term of probation shall commence. If the order is stayed, the court shall fix the terms of the stay.

d) Stays Pending Appeal

When the Superior Court stays its order or judgment to permit application to be made to the Supreme Court for a stay pending appeal, an application for such stay shall be served and filed in the Supreme Court no more than five (5) days after issuance of the Superior Court's stay.

RULE 13 -- DESIGNATION OF CLERK'S RECORD; BRIEFS

a) Designation of the Clerk's Record

(1) All parties filing briefs shall file a designation of the Clerk's record with the Clerk of the Superior Court and serve a copy on all parties. The designation shall specify those portions of the file to which the parties referred in their briefs.

(2) All parties shall serve and file their designation upon service of their briefs. (amended 09/2000).

(3) The Appellant shall also include in his designation of the Clerk's record the following documents:

(A) the petition or complaint and answer and, in criminal cases, the complaint, information or indictment;

(B) the pretrial order, if any;

(C) the judgment or interlocutory order from which the appeal is taken;

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- (D) other orders sought to be reviewed, if any;
 - (E) any supporting opinion, findings of fact or conclusions of law filed or delivered orally by the trial court;
 - (F) the motion and response upon which the court rendered judgment, if any;
 - (G) the notice of appeal;
 - (H) any certification by the Superior Court pursuant to Rule 54(b) of the Superior Court Rules of Civil Procedure;
 - (I) any order of the Superior Court under Rule 4(c) of these rules extending the time for filing the notice of appeal; and
 - (J) the trial court docket sheet.

Although not all the above listed requirements are applicable to each case, each Appellant's designation of record must contain at minimum items A, C, G, and J.

b) Brief of the Appellant

The brief of the Appellant shall contain under appropriate headings and in the order here indicated:

- (1) A table of contents, with page reference, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.
- (2) A statement of the issues presented for review and the standard of review for each issue.
- (3) A statement of jurisdiction pursuant to Rule 13(j). The filing of the Statement of Jurisdiction, pursuant to Rule 4.1, does not act as a substitute for this requirement. (amended 09/2000).
- (4) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. There shall follow a statement of the facts relevant to the issues presented for review, with appropriate reference to the record.
- (5) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the Appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on. The argument shall include analysis and explanation of the Appellant's contentions. Incorporation of the argument of a brief filed in a separate appeal shall not be considered unless the cases are consolidated or joined. (amended 09/2000).
- (6) A short conclusion stating the precise relief sought.

c) Brief of the Appellee

The brief of the Appellee shall conform to the requirements of subsections (b)(1) - (5), except that a statement of the issues or of the case need not be made unless the Appellee is dissatisfied with the statement of the Appellant.

d) Reply Brief

The Appellant may file a brief in reply to the brief of the Appellee. No further briefs may be filed except with leave of court. All reply briefs shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the reply brief where they are cited.

If no reply brief is to be filed, Appellant shall notify the Clerk and the Appellee in writing of that decision prior to expiration of the time for filing the reply brief. (amended 09/2000).

e) References In Briefs to Parties

Counsel will be expected in their briefs and oral arguments to keep to a minimum references to parties by such designations as "Appellant" and "Appellee." It promotes clarity to use the designations used in the Superior Court, or the actual names of parties, or descriptive terms such as "the employee", "the injured person", "the taxpayer", "the ship", "the stevedore", etc.

f) References In Briefs To The Record

References in the briefs to parts of the record reproduced in the excerpt filed with the brief of the Appellant [See Rule 15(a)] shall be to the pages of the excerpt at which those parts appear. If the record is reproduced in accordance with the provisions of Rule 15(f), or if references are made in the briefs to parts of the record not reproduced, the references shall be to the pages of the part of the record involved; e.g. Answer p.7, Motion for Judgment p.2, Transcript p.231. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages of the excerpt at which the evidence was identified, offered, and received or rejected.

g) Reproduction of Statutes, Rules, Regulations, etc.

If determination of the issues presented requires the study of statutes, rules, regulations, etc. or relevant parts thereof, they shall be reproduced in the brief or in the addendum [Rule 13(o)] at the end, or they may be supplied to the court in pamphlet form.

h) Citation of Supplemental Authorities

When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party shall promptly advise this court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to a point argued orally to which the citations pertain, but the letter shall be without argument and shall state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

i) Certificate As To Interested Parties

(1) In all cases except criminal and habeas corpus cases, counsel for private (non-government) parties shall attach to the inside of the cover of the initial brief counsel's certificate listing all persons, associations of persons, firms, partnerships, or corporations known to have an interest in the outcome of the case, as follows:

Number and Caption of Case
Certificate Required by Rule 13(I)

The undersigned, counsel of record for _____ certifies that the following have an interest in the outcome of this case: (Here list the names of all such parties and identify their interests.) These representations are made to enable Justices of the court to evaluate possible recusal.

Attorney of Record for Appellant/Appellee

(2) In all cases, Counsel shall list all of the Justices who presided over any portion of the instant case or any related proceeding in the court below and all Justices who may have served as counsel of record, or who may have provided legal advice to any party to the proceeding and any interested parties listed in subsection (a) above.

If there are no known interested parties other than those participating in the case, a statement to that effect will constitute compliance with this rule.

j) Statement of Jurisdiction

In a statement preceding the statement of the case in its initial brief, each party shall demonstrate the jurisdiction of the Superior Court and of this court by stating, in the following order:

- (1) The statutory basis of subject matter jurisdiction of the Superior Court;
- (2) The basis for claiming that the judgment or order appealed from is final or otherwise appealable, and the statutory basis of jurisdiction of this court; and
- (3) The date of entry of the judgment or order appealed from, the date of filing of the notice of appeal or petition for review, and the statute or rule under which it is claimed the appeal is timely.

If the Appellee agrees with Appellant's statement of one or more of the foregoing matters, it will be sufficient for the Appellee to state such agreement under an appropriate heading.

k) Attorney's Fees

Any party in a civil case who intends to seek attorney's fees for the appeal must include a short statement to that effect and must identify the authority under which the attorney's fees will be sought. Failure to comply with this provision may constitute a waiver of such fees, in whole or in part.

l) Bail Status

The opening brief in a criminal appeal shall contain a statement as to the bail status of the defendant.

m) Reviewability and Standard of Review

As to each issue, Appellant shall state where in the record on appeal the issue was raised and ruled on and identify the applicable standard of review, with citations. In addition, if a ruling complained of on appeal is one to which a party must have objected at trial, to preserve a right of review, e.g., a failure to admit or exclude evidence or the giving or refusal to give a jury instruction, the party shall state where in the record on appeal the objection and ruling are set forth.

n) Statement of Related Cases

Each party shall identify in a statement on the last page of its initial brief any known related case pending in this court. As to each such case, the statement shall include the name and Supreme Court docket number of the related case and describe its relationship to the case being briefed. Cases are deemed related if they:

- (1) arise out of the same or consolidated cases in the Superior Court;
- (2) are cases previously heard in this court which concern the case being briefed;
- (3) raise the same or closely related issues;
- (4) involve the same transaction or event; or
- (5) have any other similarities of which counsel believes the court should be aware.

If no other cases in this court are deemed related, a statement shall be made to that effect. The Appellee need not include any case identified as related in the Appellant's brief.

o) Addendum to Briefs

If determination of the issues presented requires the study of statutes, regulations or rules, or cases not available in the Guam Territorial Law Library, relevant parts thereof shall be reproduced in an addendum at the end of a party's brief. The addendum shall be separated from the brief by a distinctively colored page.

p) Briefs in Cases Involving Cross Appeals

If a cross appeal is filed, the Plaintiff in the court below shall be deemed the Appellant for purposes of this rule and Rules 15 and 16, unless the parties otherwise agree or the court otherwise orders. (amended 09/2000).

q) Briefs in Cases Involving Multiple Appellants or Appellees

In cases involving more than one Appellant or Appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any Appellant or Appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

r) Joint Briefs in Civil Cases

In civil cases involving more than one Appellant or Appellee, and in cases consolidated for purposes of the appeal, all parties on a side shall join in a single brief to the greatest extent practicable. Upon application, the court may allow the joint parties up to 5 additional pages in which to discuss any differences in their positions.

s) Length of Briefs

Except by prior permission of the court, Appellant's opening brief and Appellee's response brief shall not exceed 50 pages, and any reply brief shall not exceed 25 pages, exclusive of pages containing the table of contents, table of citations, any addendum containing statutes, rules, regulations, etc., the certificate as to interested parties, and the statement of related cases. All other required materials shall be counted in determining the length of the briefs. None of the requirements of this rule is a justification for filing a motion to exceed page limits. Parties must not append or incorporate by reference, briefs submitted to the Superior Court or refer this court to such briefs for their arguments on the merits of the appeal.

t) Motions to Exceed Page Limits

The court looks with disfavor on motions to exceed the page limits and such motions will be granted only for extraordinary and compelling reasons. A motion for permission to exceed page limits must be filed at least 14 days before the brief is due to be filed (7 days in the case of a reply brief) and must be accompanied by an affidavit stating in detail the reasons for the motion.

u) Consequences of Filing a Non-Conforming Brief

If an Appellant or Appellee files a brief which substantially fails to meet the requirements of this rule and Rule 16, and does not file a conforming brief within the time permitted under Rule 17 below, the consequence shall be as provided in Rule 17(d).

RULE 14 -- BRIEF OF AMICUS CURIAE.

A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of court granted on motion, or at the request of the court, except that consent or leave shall not be required when the brief is presented by the Government of Guam or any of its branches, agencies and instrumentalities. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Except when all parties consent, any amicus curiae shall file its brief within the time allowed the party whose position it supports unless the court, for cause shown, shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. A motion of an amicus curiae to participate in the oral argument will not be granted except for extraordinary reasons.

No reply brief of an amicus curiae will be received.

[People v. Guerrero, CRA99-025 \(Order Dec. 22, 1999\).](#)

RULE 15 -- THE EXCERPTS OF RECORD.

a) Filing of the Excerpts of Record

At the time the Appellant's brief is filed, the Appellant shall file six (6) copies of the excerpts of record, with one (1) copy designated as the "original," bound separately from the briefs. The Appellant shall serve an additional copy of the excerpts on each of the other parties. (amended 09/2000)

b) Required Content of the Excerpts of Record

The excerpts of record shall include:

- (1) the complaint, information or indictment in criminal cases;
- (2) the judgment or interlocutory order appealed from;
- (3) any other orders or rulings (whether written or delivered orally) sought to be reviewed, and the final pretrial order, and also the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues.
- (4) any opinion, findings of fact or conclusions of law, whether written or delivered orally by the Superior Court; and
- (5) any jury instructions given or refused which presents an issue on appeal.

c) Additional Items Which Shall be Included in the Excerpts of Record in Appropriate Circumstances

(1) Transcript

When an appeal is based upon a challenge to the admission or exclusion of evidence or any other ruling or order, but not otherwise, a copy of the relevant pages of the transcript at which the evidence, offer of proof, ruling, or order and any necessary objection are recorded should be included.

(2) Exhibits

When an issue raised on appeal is based on a written exhibit (including affidavits), but not otherwise, the relevant parts of the exhibits shall be included.

d) Items Not to be Included in the Excerpts of Record

Except where they have independent relevance, the Excerpts of Record shall not include briefs or other memoranda of law filed in the Superior Court.

e) Form of the Excerpts of Record

The documents which comprise the excerpts of the record need not be certified as true copies, but if possible the Superior Court's "filed" stamp should appear on each document. The documents in the excerpts should be arranged by file date in chronological order. The six copies of the excerpts are to be reproduced on letter size white paper by duplicating or copying process capable of producing a clear black image, and each copy must be bound and have a tan cover. The excerpts must be either paginated or the documents marked with tabs corresponding to the tab number of the document in the Clerk's record. The excerpts must include an index with a description of the documents, exhibits and portions of the transcript contained therein and their corresponding page or tab numbers. The information on the front cover of the excerpts of record should be styled exactly as a brief except that the wording "Excerpts of Record" should be substituted for "Brief for Appellant." (amended 09/2000)

f) Appellee's Supplemental Excerpts of Record

If Appellee believes that the excerpts of record filed by the Appellant exclude items which should be included under this rule, the Appellee may, at the time the Appellee's brief is filed, file supplemental excerpts of record, prepared pursuant to this rule, which include the omitted items. Appellee shall file five copies of the supplemental excerpts of record. The Appellee shall serve one copy of the supplemental excerpts on each of the other parties. The information on the front cover of the excerpts of record should be styled exactly as a brief except that the wording "Supplemental Excerpts of Record" should be substituted for "Brief for Appellee."

g) Sanctions for Inclusion of Unnecessary Material in the Excerpts of Record

The court in appropriate cases will impose sanctions against any attorney who vexatiously and unreasonably increases the cost of litigation by inclusion of unnecessary material in the Excerpts of Record. Counsel will be provided notice and have an opportunity to respond before sanctions are imposed.

h) Prisoner Petitions Without Representation by Counsel

In cases involving petitions of prisoners not represented by counsel, the Clerk of the Superior Court shall forward to the petitioner, within 21 days after the date the notice of appeal is filed, one copy of the documents to comprise the Excerpts of Record.

RULE 16 -- FORMS OF BRIEFS, EXCERPTS OF RECORDS AND OTHER PAPERS.

(a) Form of Briefs and Excerpts of Records

Briefs and excerpts of record may be produced by standard typographic printing and by any duplicating or copying process that produces a clear black image on white paper. Carbon copies of briefs and appendices may not be submitted without permission of the court, except in behalf of parties allowed to proceed in forma pauperis. All printed matter must appear in at least 11 point type on opaque, unglazed paper. Briefs and appendices shall be bound in volumes having pages not exceeding 8 ½ by 11 inches and type matter not exceeding 6 ½ by 9 ½, with double spacing between each line of text. Only one side of paper shall be used.

If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers to be described are available, the cover of the Appellant's brief shall have a blue cover; the Appellee's brief shall have a red cover; an intervenor's or amicus curiae brief shall have a green cover; the reply brief shall have a grey cover; and the Appellee/Cross-Appellant's reply brief shall have a yellow cover. The cover of the Excerpts of Record filed pursuant to Rule 15 shall have a tan cover. The front covers of the brief and excerpt of record shall contain: (1) the name of the court and the number of the case; (2) the title of the case; (3) the nature of the proceeding in the court (e.g. Appeal) and the name of the court below; (4) the title of the document (e.g. Brief of Appellant, Appellant's Excerpt of Record); (5) the names, business address and telephone number of counsel representing the party on whose behalf the document is filed. (amended 09/2000).

(b) Form of Other Papers

Petitions for re-hearing and all other motions permitted under these rules shall be produced in a manner prescribed by subdivision (a).

Motions or other papers addressed to the court shall contain a caption setting forth the name of the court, the title of the case, the file number, and a brief descriptive title indicating the purpose of the paper and otherwise comply with Rule 6(a). (amended 09/2000).

RULE 17 -- FILING AND SERVICE OF BRIEFS

a) Time for Serving and Filing of Briefs

The Appellant shall serve and file his brief within forty (40) days after the date on which the record was filed. The Appellee shall serve and file his brief within thirty (30) days after service of the brief of the Appellant. The Appellant may serve and file a reply to the brief within fourteen (14) days after service of the brief of the Appellee, but, except for good cause shown, a reply brief must be filed at least fourteen (14) days before argument.

b) Number of Copies to be Filed and Served

An original and seven (7) copies of each brief shall be filed with the Clerk of the Supreme Court, unless the court, by order in a particular case, shall direct a lesser number, and one (1) copy shall be served on counsel for each party separately represented.

c) Motion for Extension of Time for Filing Brief

A motion for an extension of time for filing a brief shall be made at least five (5) days before the time period prescribed by subsection (a) of this Rule for the filing of such brief and shall be accompanied by proof of service. The motion shall be supported by an affidavit stating the time when the brief is due; how many extensions of time, if any, have been granted and, if there have been extensions of time, when the brief was first due; whether any previous requests for extensions of time have been denied or denied in part; the reasons why such an extension is necessary; the amount of extension deemed necessary; and what assurance there is that the brief will be filed within the extended time requested. Such information is required regardless of whether or not opposing counsel stipulates to the extension. (amended 09/2000).

[Leon Guerrero v. Moylan, CVA99-034 \(Order Jan. 18, 2000\).](#)

d) Consequence of Late Filing of Briefs and of Failure to File Briefs

(1) Appellant

If an Appellant fails to file his brief within the time provided by this Rule, or within the time extended, the brief may thereafter be filed only upon order of the Chief Justice of this court and late filing shall constitute a waiver of oral argument. The waiver may be set aside in the discretion of the Chief Justice of this court. If an Appellant fails to timely file his brief, an Appellee or the Supreme Court may move for dismissal of the appeal. (amended 09/2000).

[Bascon Corp. v. Lujan, CVA98-030 \(Notice of Dismissal Jan. 25, 1999\).](#)

[Bascon Corp. v. Lujan, CVA98-030 \(Order Feb. 10, 1999\).](#)

(2) Appellee

If an Appellee fails to file his brief within the time provided by this rule, or within the time extended, the brief may thereafter be filed only upon order of the Chief Justice of this court and the Appellee shall be deemed to have waived oral argument. The waiver may be set aside in the discretion of the Chief Justice of this court. If an Appellee chooses not to file a brief, the Appellee shall file a statement indicating that no brief shall be filed. Such statement shall be filed and served at the time Appellee’s brief would otherwise be due. (amended 09/2000).

[Leon Guerrero v. Moylan, CVA99-034 \(Order Jan. 18, 2000\).](#)

e) Cross-Appeals; Briefing Schedule (Effective September 2000)

In cases presenting a cross-appeal, the Appellant/Cross-Appellee shall serve and file his brief within forty (40) days after the date on which the record was filed. The Appellee/Cross-Appellant shall file a combined opposition/opening brief within forty (40) days after service of the Appellant/Cross-Appellee’s brief. The Appellant/Cross-Appellee shall file a combined reply/opposition brief within thirty (30) days after service of the Appellee/Cross-Appellant’s combined brief. The Appellee/Cross-Appellant shall file his reply brief within fourteen (14) days after service of the Appellant/Cross-Appellee’s combined brief. (eff. 09/2000).

RULE 18 -- PREHEARING CONFERENCE.

The Chief Justice may direct the attorneys for the parties to appear for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceedings by the court. The court shall make an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceedings, unless modified to prevent manifest injustice.

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RULE 19 -- ORAL ARGUMENT.**a) Application to Cases**

Oral argument shall be had in all cases except those in which the Supreme Court enters an order providing for consideration of the case without oral argument.

[People v. Kim, CRA98-017 \(Order Mar. 24, 1999\).](#)

b) Notice of Argument; Postponement

The Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed reasonably in advance of the date fixed for hearing.

c) Time Allowed for Argument (amended 01/2002)

Unless otherwise provided by rule for all cases or for classes of cases, counsel for each side will be allowed thirty (30) minutes for oral argument, which includes questions posed by the court. If counsel is of the opinion that additional time is necessary for the adequate presentation of his argument, he may request such additional time as he deems necessary. Requests may be made by letter addressed to the Clerk of the Supreme Court within seven (7) days of the date fixed for the argument and shall only be granted if good cause therefor is shown. If multiple parties who are represented by separate counsel or counsel for amicus curiae request argument, the court may apportion or expand the time according to the respective parties' interests. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

d) Cross and Separate Appeals (amended and re-numbered 01/2002)

A cross or separate appeal shall be argued with the initial appeal at a single argument, unless the court otherwise directs. If a case involves a cross appeal, the Plaintiff in the action below shall be deemed the Appellant for the purposes of this rule unless the parties otherwise agree or the court otherwise directs. If separate Appellants support the same argument, care shall be taken to avoid duplication of argument. The time allowed for argument shall be the same as provided for in Rule 19(c).

e) Order and Content of Argument (re-numbered 01/2002)

The Appellant is entitled to open and conclude the argument. The opening argument shall include a fair statement of the case. Counsel will not be permitted to read at length from briefs, records or authorities.

f) Number of Counsel (added 01/2002)

No more than one counsel may argue for each party who appeared separately in the court below, unless the court orders otherwise.

g) Amicus (added 01/2002)

Upon written request, the court may grant or deny any amicus curiae the opportunity to argue. As provided in Rule 14, the court will not grant such request unless extraordinary reasons therefor is shown.

h) Non-appearance of Parties (re-numbered 01/2002)

If the Appellee fails to appear to present argument, the court will hear argument on behalf of the Appellant, if present. If the Appellant fails to appear in court, the court may hear argument on behalf of the Appellee, if his counsel is present. If neither party appears, the case will be decided on the briefs unless the court shall otherwise order. Parties are encouraged to inform the court at a date well in advance to that of oral argument if they choose not to appear and submit the appeal on the basis of their appellate briefs.

i) Submission on the Briefs (re-numbered 01/2002)

The court may order a case to be submitted on the briefs. The parties may also agree to submit a case on the briefs; however, the court may direct that the case be argued. (amended 09/2000)

[Gill v. Siegel, CVA99-017 \(Order Dec. 9, 1999\).](#)

j) Use of Physical Exhibits at Arguments; Removal (re-numbered 01/2002)

If physical exhibits other than documents are to be used at the argument, counsel shall arrange to have them placed in the courtroom before the court convenes on the date of the argument. After the argument, counsel shall cause the exhibits to be removed from the courtroom unless the court otherwise directs.

If exhibits are not reclaimed by counsel within a reasonable time after notice is given by the Clerk, they shall be destroyed or otherwise disposed of as the Clerk sees fit.

RULE 20 -- CERTIFIED QUESTIONS.

The Superior Court of Guam pursuant to 7 GCA § 4105 may certify to this court a question or proposition of law concerning a local law of Guam. The certificate submitted shall contain a statement of the nature of the case and the facts on which the question or proposition of law arises. Only questions or propositions of law may be certified, and they must be distinct and definite. The Clerk of Court from which the case originates must certify the record and transmit it to this court. If the Chief Justice determines that the local law has not been clearly determined, and it is necessary and desirable to ascertain the local law in order to dispose of the Superior Court's proceeding, then the certificate will be accepted. The Chief Justice may, in his or her discretion, return any certified questions for decision in the first instance by the Superior Court.

If a case is not accepted for certification, the Clerk will notify the respective parties of the denial of the certification and the matter will be returned to the Superior Court for decision of the certified questions. If a certified case is accepted, the Clerk will notify the respective parties and docket the case. Counsel shall then enter their appearances. After docketing, the certificate shall be submitted to the court for a preliminary examination to determine whether the case shall be briefed, and/or set for argument. No brief may be filed prior to the preliminary examination of the certificate.

If the court orders that the case be briefed or set for argument, the parties shall be notified and permitted to file briefs. Any portion of the record to which the parties wish to direct the court's particular attention shall be appended to the brief. The fact that any part of the record has not been appended shall not prevent the parties or the court from relying on it. The parties shall comply with these rules in the filing of briefs.

The costs of the certification shall be equally borne by the parties. If the Government of Guam is a party to the case, the costs shall be divided by the total number of parties, including the government. However, the government shall not be required to pay its share of the costs.

In cases where one or several questions of law have been certified, and a party maintains the affirmative as to the certified question(s) of law, that party shall be regarded as the Appellant, the opposing party shall be the Appellee. Where there are several questions which have been certified or reserved and a party maintains the affirmative to some and the negative to other certified or reserved questions, the plaintiff shall be regarded as the Appellant, unless, upon application to the court, an order specifying otherwise is issued by the court.

RULE 21 -- FRIVOLOUS APPEALS.

Upon motion or sua sponte, if the Supreme Court shall determine that an appeal or cross-appeal is frivolous, it may award damages including attorney's fees and costs.

An original and four (4) copies of the request for attorney's fees shall be filed with the Clerk, with proof of service, within thirty (30) days after the entry of this court's decision. The request must be filed separately from any cost bill.

Any party from whom attorney fees are requested may file an opposition to the request. An original and four (4) copies of each opposition shall be filed with the Clerk, with proof of service, within fourteen (14) days after service of the request.

No separate hearing shall be had on a request for attorney's fees.

[Gutierrez v. Charfauros, CVA99-045 \(Order Oct. 27, 1999\).](#)

[Gutierrez v. Charfauros, CVA99-045 \(Order Oct. 29, 1999\).](#)

RULE 21.1. -- SIGNING OF PLEADINGS, MOTIONS, BRIEFS, and OTHER PAPERS; REPRESENTATIONS TO COURT; SANCTIONS. (Adopted pursuant to Promulgation Order No. AP03-005, effective December 10, 2003)

a) Signature

Every pleading, written motion, brief, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) Representations to Court.

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, brief, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, –

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions.

If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court shall, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) How Initiated.

(A) By Motion.

A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 10, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) On Court's Initiative.

On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

(2) Nature of Sanction; Limitations.

A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2).

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3) Order.

When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

RULE 22 -- COSTS. (Amended pursuant to Promulgation Order No. 04-006, effective 12/23/2004)

a) Against Whom Assessed. The following rules apply unless the law provides or the court orders otherwise:

- (1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;
- (2) if a judgment is affirmed, costs are taxed against the appellant;
- (3) if a judgment is reversed, costs are taxed against the appellee;
- (4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

[Taijeron v. Kim, 1999 Guam 16, ¶ 28.](#)

[Taijeron v. Kim, CVA96-018 \(Order June 8, 1999\).](#)

b) Costs For and Against the Government of Guam. Costs for or against the Government of Guam, its agency, or officer will be assessed under Rule 22(a) only if authorized by law.

c) Costs of Copies. The cost of producing necessary copies of a brief or excerpts, or copies of records shall not exceed \$0.25 per page unless good cause is shown.

d) Bill of Costs: Objections; insertion in Mandate.

(1) A party who wants costs taxed must--within 14 days after entry of judgment--file with the Supreme Court clerk, with proof of service, an itemized and verified bill of costs.

(2) Objections must be filed within 10 days after service of the bill of costs, unless the court extends the time.

(3) The clerk must prepare and certify an itemized statement of costs for insertion in the mandate, but issuance of the mandate must not be delayed for taxing costs. If the mandate issues before costs are finally determined, the Superior Court clerk must--upon the Supreme Court clerk's request--add the statement of costs, or any amendment of it, to the mandate.

e) Costs on Appeal Taxable in the Superior Court. The following costs on appeal are taxable in the Superior Court for the benefit of the party entitled to costs under this rule:

(1) the preparation and transmission of the record;

(2) the reporter's transcript, if needed to determine the appeal;

(3) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and

(4) the fee for filing the notice of appeal.

RULE 23 -- SUBSTITUTION OF PARTIES.**a) Death of a Party**

If a party dies after a notice of appeal is filed or while a proceeding is otherwise pending in the Supreme Court, the personal representative of the deceased party may be substituted as a party on the motion filed by the representative or by any party with the Clerk of the Supreme Court. The motion of a party shall be served upon the representative in accordance with the provisions of Rule 10. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as the Supreme Court may direct. If a party against whom an appeal may be taken dies after entry of a judgment or order in the Superior Court before notice of appeal is filed, an Appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subsection. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by his personal representative, or, if he has no personal representative, by his attorney of record within the time prescribed by these rules. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subdivision.

b) Substitution for Other Causes

If substitution of a party in the Supreme Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in subsection (a). The death or resignation of a public officer who is a party does not abate the action and his successor is automatically substituted as a party.

RULE 24 -- WRITS OF MANDAMUS AND PROHIBITION DIRECTED TO JUDGE OR JUDGES, AND OTHER EXTRAORDINARY WRITS.**a) Mandamus or Prohibition to a Judge or Judges; Petition for Writ; Service and Filing**

Application for a Writ of Mandamus or Writ of Prohibition directed to a judge or judges shall be made by filing a petition therefor with the Clerk of the Supreme Court with proof of service on the respondent judge or judges and on all parties to the action in the Superior Court. The petition shall contain a statement of the facts necessary for an understanding of the issues presented by the application; a statement of the issues presented and of the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. Upon receipt of proof of payment of the prescribed docket fee, payable to the Supreme Court of Guam, the Clerk of this court shall docket the petition and submit it to this court. (amended 09/2000).

b) Denial; Order Directing Answer

If this court is of the opinion that the writ should not be granted, it shall deny the petition. Otherwise, it shall order that an answer to the petition be filed by the respondents within the time fixed by the order. The order shall be served by the Clerk of this court on the judge or judges named respondents and on all other parties to the action in the Superior Court. All parties below other than the petitioner shall be deemed respondents for all purposes. Two or more respondents may answer jointly. If the judge or judges named respondents do not desire to appear in the proceeding, they may so advise the Clerk of this court and all parties by letter, but the petition shall not thereby be taken as admitted. The Clerk shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument. The proceeding shall be given preference over ordinary civil cases.

[*Gutierrez v. Superior Court of Guam, WRP00-001 \(Alt. Writ of Prohibition Apr. 28, 2000\).*](#)

[*Gutierrez v. Superior Court of Guam, WRP00-001 \(Order Directing Alt. Writ of Prohibition Apr. 28, 2000\).*](#)

[*Gutierrez v. Superior Court of Guam, WRP00-001 \(Order Apr. 28, 2000\).*](#)

c) Other Extraordinary Writs

Application for extraordinary writs other than those provided for in subdivisions (a) and (b) of this Rule shall be made by petition filed with the Clerk of this court with proof of service on the parties named as respondents. Proceedings on such application shall conform, so far as is practicable, to the procedure prescribed in subdivisions (a) and (b) of this Rule.

d) Form of Papers; Number of Copies

An original and four copies (unless the court orders more copies) of all papers shall be filed with the Clerk.

e) Captions

Petitions for Writs of Mandamus, Prohibition or other extraordinary relief directed to a judge shall bear the title of the Superior Court and shall not bear the name of the Superior Court judge or judges, as Respondent in the caption. Petitions shall include in the caption: the name of each petitioner; the name of the appropriate court as respondent; and the name of each real party in interest. Other petitions for extraordinary writs shall include in the caption: the name of each petitioner; and the

name of each appropriate adverse party below as respondent.

f) Certificate of Interested Parties

Petitions for writs of mandamus or prohibition, and for other extraordinary writs, shall include the certificate as to interested parties required by Rule 13(i) and the statement of related cases required by Rule 13(n).

g) Effective Date (Effective September 2000)

Writ decisions of the Supreme Court are effective upon issuance. (eff. 09/2000).

RULE 25 -- WRITS OF HABEAS CORPUS.

When the petitioner is seeking writ of habeas corpus, it shall comply with the requirements of 8 GCA Chapter 135. The Petitioner must show why the petition has not been brought first in the Superior Court, or if such a petition has been brought, the decision on such a petition and any appeals thereon. The Supreme Court, or any Justice thereof, will not grant a writ of habeas corpus if the Petitioner has available to him an appeal of a writ already decided in the Superior Court on the same matter, or where such an appeal would have been available but the petitioner did not pursue the appeal.

Proceedings under this Rule will be ex parte but the court shall permit an answer or reply as permitted in 8 GCA Chapter 135. Neither denial of the petition, without more, nor an order of transfer under authority of 7 GCA § 3108(c)(2), is an adjudication on the merits, and the former action is to be taken as without prejudice to a further application to any other court for the relief sought.

Writ decisions of the Supreme Court are effective upon issuance.

(amended 09/2000).

[*Borja v. Bitanga*, 1998 Guam 29.](#)

[*Leon Guerrero v. Bitanga*, CVA98-013 \(Order Oct. 14, 1999\).](#)

RULE 26 -- PLEADINGS AND PROCEEDINGS IN ORIGINAL ACTIONS FILED IN THE SUPREME COURT.

a) Pleadings

All pleadings in applications for writs or other relief, including requests under 7 GCA § 4104, filed originally in the Supreme Court, shall conform to the requirements of Guam Rules of Civil Procedure 7 through 15.

b) Proceedings

In actions filed originally with the Supreme Court, including writs and declaratory judgment proceedings, the proceedings shall conform to the requirements of any applicable statutes and to such orders as may, from time to time, be issued by the Supreme Court.

RULE 27 -- REQUESTS UNDER 7 GCA § 4104.

Requests for advisory opinions made by the Governor and/or the Legislature pursuant to title 7 GCA § 4104, shall comply with the Guam Rules of Appellate Procedure, the applicable Rules of Civil Procedure for the Superior Court of Guam and any relevant Rules of the Superior Court.

The Chief Justice shall determine whether the request involves a matter of great public interest and the normal processes of law would cause undue delay. If the request is accepted for consideration, then a notice to interested parties shall be issued forthwith as ordered by the Supreme Court and the matter shall be briefed and set for oral argument. All briefs shall conform, generally, to Guam Rule of Appellate Procedure 13, 16, and 17 (b), (c). All parties' briefs shall have a blue cover. (amended 09/2000).

[*In re Request of I Mina' Bente Sing'ko Na Liheslaturan Guåhan Relative to the Application of the Earned Income Tax Credit Program to Guam Taxpayers, CRQ00-001 \(Order June 15, 2000\).*](#)

RULE 28 -- DETERMINATION OF CAUSE; DISMISSAL; OPINIONS; MANDATE. (Amended pursuant to Promulgation Order No. 04-006, effective 12/23/2004)**a) Determination of Cause**

A decision shall be determined by a majority vote of the panel. The Chief Justice alone, or an Associate Justice sitting in his or her place, may make any appointment orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or these rules. The original opinions of the court shall be filed with the Clerk of the Supreme Court for preservation and when so filed, the same shall be deemed to be recorded.

b) Opinions and Entry of Judgment

(1) Opinions. Opinions may be rendered by the assigned Justice, or may take the form of *per curiam* or memorandum opinions. Opinions rendered by the court shall be published unless designated otherwise. Memorandum opinions shall not be published. Opinions that are not published shall not be cited in any other action or proceeding except when the opinion establishes the law of the pending case, *res judicata* or collateral estoppel, or in a criminal action or proceeding involving the same respondent.

(2) Entry of Judgment; Notice

(A) Entry. A judgment is entered when it is noted on the docket. The clerk must prepare, sign, and enter the judgment:

- (i) after receiving the court's opinion; or

(ii) if a judgment is rendered without an opinion, as the court instructs.

(B) Notice. On the date when judgment is entered, the clerk must serve on all parties a copy of the opinion--or the judgment, if no opinion was written--and a notice of the date when the judgment was entered.

c) Mandate: Contents; Issuance and Effective Date; Stay

(1) Contents. Unless the court directs that a formal mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs.

(2) When Issued. The court's mandate must issue 7 calendar days after the time to file a petition for rehearing expires, or 7 calendar days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. The court may shorten or extend the time.

(3) Effective Date. The mandate is effective when issued.

(4) Staying the Mandate.

(A) On Petition for Rehearing or Motion. The timely filing of a petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, stays the mandate until disposition of the petition or motion, unless the court orders otherwise.

(B) Pending Petition for Certiorari.

(i) A party may move to stay the mandate pending the filing of a petition for a writ of certiorari in the Supreme Court of the United States. The motion must be served on all parties and must show that the certiorari petition would present a substantial question and that there is good cause for a stay.

(ii) The stay must not exceed 90 days, unless the period is extended for good cause or unless the party who obtained the stay files a petition for the writ and so notifies the Guam Supreme Court clerk in writing within the period of the stay. In that case, the stay continues until the Supreme Court of the United States' final disposition.

(iii) The court may require a bond or other security as a condition to granting or continuing a stay of the mandate.

(iv) The court must issue the mandate immediately when a copy of a Supreme Court of the United States' order denying the petition for writ of certiorari is filed.

d) Petitions to the Supreme Court of the United States. If a party files a petition of certiorari in the Supreme Court of the United States, a copy of the petition for certiorari shall be filed with the Supreme Court of Guam.

RULE 29 -- INTEREST ON JUDGMENT.

Unless otherwise provided by law, if a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment was entered in the Superior Court. If the judgment is modified or reversed with a direction that a judgment for money be entered in the Superior Court, the notice of entry of judgment shall contain instructions with respect to allowance of interest.

RULE 30 -- DETERMINATION OF CAUSES BY THE COURT EN BANC.

a) When hearing or rehearing en banc will be ordered

If a party to an appeal or other proceeding suggests that an appeal or other proceeding be heard or reheard by the court *en banc*, such a hearing or rehearing *en banc* will not be ordered unless no fewer than five (5) Justices agree to hear or rehear the appeal or proceeding *en banc*. Such a hearing or rehearing is not favored and ordinarily will not be ordered except when the proceeding involves a question of exceptional importance.

b) Suggestion of a party for hearing or rehearing en banc

A party may suggest the appropriateness of a hearing or rehearing *en banc*. No response shall be filed unless the court shall so order. The court will not order a hearing or rehearing without giving the other parties an opportunity to express their view whether hearing or rehearing *en banc* is appropriate. Where no suggestion of appropriateness is filed, the court will not ordinarily order a hearing or rehearing *en banc* without giving counsel an opportunity to respond on the appropriateness of such a hearing.

c) Time for suggestion of a party for hearing or rehearing en banc

If a party desires to suggest that an appeal be heard initially *en banc*, the suggestion shall be made by the date on which the Appellee's brief is filed. A suggestion for a rehearing *en banc* must be made within the time prescribed by Rule 31 for filing a petition for rehearing, whether the suggestion is made in the petition or otherwise.

RULE 31 -- PETITION FOR REHEARING.**a) Time for Filing; Content; Answer; Action by Court if Granted**

A petition for rehearing may be filed within fourteen (14) days after filing of the opinion, memorandum, or order unless the time is shortened or enlarged by order or by local rule. The petition shall state with particularity the points of law or fact which in the opinion of the petitioner, the Court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. An issue not previously briefed by the parties can not be raised for the first time in a petition for rehearing in the Supreme Court of Guam. Oral argument in support of the petition will not be permitted. No answer to a petition for rehearing will be received unless requested by the court, but a petition for rehearing will ordinarily not be granted in the absence of such a request. Rehearing will not be ordered without giving all parties an opportunity to respond in writing on whether rehearing is appropriate. If a petition for rehearing is granted the court may make a final disposition of the cause without reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case. The timely filing of a petition for rehearing shall stay the issuance of mandate until disposition of the petition unless otherwise ordered by the court. (amended 09/2000).

[Pangelinan v. Gutierrez, CVA99-020 \(Order Apr. 11, 2000\).](#)

b) Form of Petition; Length

The petition shall be in a form prescribed by Rule 16 and shall be served and filed as prescribed by Rule 17. A petition for rehearing shall have an orange cover. Except by permission of the court, a petition for re-hearing shall not exceed fifteen (15) pages. (amended 09/2000).

RULE 32 -- DUTIES OF CLERKS.**a) The Clerk of the Supreme Court Shall Take the Oath and Give the Bond Required by Law**

Neither the Clerk nor any deputy clerk shall practice as an attorney or as counselor in any court while he continues in office. The Office of the Clerk shall be deemed always open for the purpose of filing any proper paper, of issuing and returning process and of making motions and orders. The Office of the Clerk with the Clerk or a deputy in attendance shall be open during business hours on all days, except Saturdays, Sundays, and legal holidays. The Office of the Clerk may be closed pursuant to order by the Chief Justice. (amended 09/2000).

b) The Docket; Calendar; Other Records Required

The Clerk shall keep a book or a suitable information retrieval system, known as a docket so the cases on appeal shall be assigned consecutive file numbers. The file number of each case shall be noted on the folio of the docket whereon the first entry is made. All papers filed with the Clerk and all process, orders and judgments shall be entered chronologically in the docket on the folio assigned to the case. Entry shall be brief but shall show the nature of each paper filed or judgment or order entered. The entry of an order or judgment shall show the date the entry is made. The Clerk shall keep a suitable index of cases contained in the docket. With the implementation of a computer docketing system, the Clerk shall follow such rules of procedure as may be prescribed by the Supreme Court.

The Clerk shall prepare every month, and supply to the court, a calendar of cases awaiting argument. In placing cases on the calendar for argument, the Clerk shall give preference to appeals in criminal cases and to appeals in other proceedings entitled to preference by law. The Clerk shall keep such other books and records as may be required from time to time or as may be required by the court.

It shall be the duty of the Clerk to regularly schedule status calls of every appeal for which the time for transmitting the record or filing briefs has passed. The Clerk shall also be responsible for monitoring extensions of time for transmitting the record and filing briefs.

c) Notice of Orders or Judgments

Immediately upon the entry of an order or judgment, the Clerk shall serve a notice of entry by mail upon each party to the proceeding, together with a copy of any opinion respecting the order or judgment, and shall make a note in the docket of the mailing. Service on a party represented by counsel shall be made on counsel.

d) Custody of Records and Papers

The Clerk shall have custody of the records and papers of the court. The Clerk shall not permit any original record or paper to be taken from his custody except as authorized by the orders or instructions of the court. Original papers transmitted as the record on appeal or review shall upon disposition of the case be returned to the court or agency from which they were received. The Clerk shall preserve copies of briefs and appendices and other printed papers filed. (amended 09/2000).

e) Costs and Fees to Be Collected by the Clerk

The Clerk shall collect costs and fees provided by these rules in such amounts as may, from time to time, be determined by the Chief Justice.

f) Powers of the Clerk of the Supreme Court (Effective September 2000)

The Clerk of the Supreme Court may return or reject briefs, motions, documents or other papers filed or received by the Supreme Court that fail to conform to the Guam Rules of Appellate Procedure. If a party is permitted to refile the brief, motion, document or other paper, failure to correct errors may result in sanctions, including dismissal. (eff. 09/2000).

RULE 33 -- RULES BY THE SUPREME COURT OF GUAM.

The Supreme Court may from time to time make and amend rules governing its practices. In all cases not provided for by rule, the Supreme Court may regulate its practice in any manner and may impose sanctions, including dismissal of an appeal, for non-compliance with its rules and orders. (amended 09/2000).

RULE 34 -- TITLE.

These rules may be known and cited as the Guam Rules of Appellate Procedure (GRAP). (amended 09/2000).

RULE 35 -- DEVOLUTION OF CHIEF JUSTICE'S DUTIES AND SYSTEM FOR APPOINTMENT OF PART-TIME JUSTICES TO MATTERS BEFORE THE COURT. (Effective July 25, 1997)**a) Performance of Chief Justice's duties when unavailable**

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

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

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

b) Assignments

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

(2) If no part-time Justice is available, the Chief Justice may discretionarily assign, based upon consideration of availability, cost and judicial expediency; any one of the Designated Justice who are then serving in such capacity pursuant to 7 GCA § 3103(b). In the event no Designated Justice is available, or the Chief Justice determines that interest of judicial economy or expediency require the use of a judicial officer then serving on the Superior Court of Guam, the Chief Justice may request that a Superior Court Judge be

designated, per 7 GCA § 3103(f), to hear a particular matter. For purposes of this rule, each case heard will be considered a separate assignment.

(3) This rule is provided for the administrative purpose of ensuring an even distribution of work across the part-time Justices of the court. A deviation from the prescribed procedure provides no basis for challenge to the decision of any panel of the court, and the Chief Justice may, in his discretion and for good cause, depart from the assignment rotation identified here at any time.

RULE 36 -- PARTICIPATION BY THE ATTORNEY GENERAL. (Effective September 2000)

(a) **Generally**

In any action, suit or proceeding in this court to which the Government of Guam or any agency, officer or employee thereof is not a party, wherein the validity of any Act of the Liheslaturan Guåhan affecting the public interest is drawn in question, the court shall notify the Attorney General of such fact and shall permit the Government of Guam to intervene or participate as *amicus curiae*, as appropriate. The Government of Guam shall, subject to the applicable provisions of law and these Rules, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation relating to the question of the law's validity.

(b) **Acts of Government Questioned**

Whenever, in any action or proceeding before this Court, an act, failure to act, or interpretation of law or rules and regulations made by the Government of Guam, or by any agency, instrumentality or officer thereof, is placed into question, and neither the Government of Guam nor the appropriate agency, instrumentality or officer is a party, the Court shall notify the Attorney General of this fact, and permit the Attorney General to intervene or participate as *amicus curiae*, as appropriate. The Government of Guam shall, subject to the applicable provisions of law and these Rules, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation relating to the question of the law's validity.

(c) **Child Support**

In any action or proceeding before this court wherein there has arisen a question regarding the support of minor children, and the Family Division of the Attorney General's Office is not a participant in the action or proceeding and the court below has either awarded child support in an amount less than one hundred dollars (\$100.00) per month or has not required a mandatory wage garnishment, the court shall so notify the Family Division and permit it to participate as provided in 5 GCA Chapter 34.

(d) **Notification**

Within ten (10) days after receiving notice from the court pursuant to this Rule, the Attorney General shall notify the court whether the Government of Guam intends to intervene or participate as *amicus curiae* in a particular appeal.

NOTE: Rule 24 of the Guam Rules of Civil Procedure already contains a provision for notifying the Attorney General when important issues are raised in that court. This Rule is a heavy modification of 28 USC § 2403, taking into consideration the differing nature of this court, the interests involved and the jurisdiction of the Government of Guam.

The authority for this Rule comes from several sources. Generally, 5 GCA § 30102, where it states in the first sentence: “The Attorney General shall have cognizance of all legal matters in which the government of Guam is in anywise interested.” Title 5 GCA Chapter 34, Enforcement of Support, contains various provisions giving that Division the right and duty to participate in all cases involving certain types of child support, or the lack thereof.

(eff. 09/2000).

RULE 37 – ANDERS BRIEFS. (Effective September 2000)

After conscientious examination of the record, should counsel for the Defendant-Appellant determine that the case is wholly frivolous, counsel shall advise the court and request permission to withdraw from the case. Counsel shall file, in conjunction with a Motion to Withdraw as counsel, a brief, pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, *reh’g denied*, 388 U.S. 924, 87 S.Ct. 2094 (1967) which refers to anything in the record which might arguably support an appeal. Such brief and motion to withdraw shall be provided to the Defendant-Appellant. Additionally, counsel shall file a motion for leave for the Defendant-Appellant to file a brief *in pro per*, should the Defendant-Appellant believe there are appealable issues in the case.

Subsequent to the court’s grant of leave for the Defendant-Appellant to file a brief, *in pro per*, and the Defendant-Appellant’s filing of a brief *in pro per*, wherein the Defendant-Appellant may raise any issues he so chooses, the Appellee (the Government) shall file an answer in response. The court shall then consider the *Anders* brief, the brief filed *in pro per*, the Appellee’s response and fully examine the record before making a determination as to whether the appeal shall proceed or be dismissed.

Should the court determine that the case should proceed, the court shall either grant counsel’s motion to withdraw and appoint new counsel or require counsel to remain on the case and represent and assist the Defendant-Appellant in his appeal.

Anders briefs shall conform to the form requirements of Rule 16 and shall be served and filed as prescribed by Rule 17.

(eff. 09/2000).

[People v. Pangelinan, CRA99-005 \(Order Oct. 14, 1999\).](#)

[People v. Leon Guerrero, CRA99-026 \(Order Apr. 26, 2000\).](#)

[People v. Pangelinan, CRA99-005 \(Order Nov. 1, 1999\)](#)

[People v. Pangelinan, CRA99-005 \(Order Jan. 28, 2000\).](#)

RULE 38 - RULES GOVERNING ELECTRONIC FILING. (Effective April 29, 2004)

a) **General Provisions**

(1) **Short Title**

These rules may be cited as “e-filing rules.”

(2) **Definitions**

The following terms in this Rule shall be defined as follows:

(A) “Electronic Filing Service Provider” (EFSP) means the service provided by the court for e-filing and e-service of documents via the Internet. The service may be accessed at www.guamsupremecourt.com or in person at the courthouse using a Public Access Terminal.

(B) “Public Access Terminal” means a publicly accessible computer provided by the court for the purposes of allowing e-filing and viewing of public records. The public access terminal shall be located in the Clerk’s office at the courthouse and made available during normal business hours.

(C) “Electronic Filing” (e-file) means the electronic transmission of documents to the court, and from the court for the purposes of filing.

(D) “Electronic Service” (e-service) means the electronic transmission of documents to a party, attorney or representative under these rules.

(3) **Scope of Rules**

(A) As of the effective date of this rule, except as expressly provided herein, the Supreme Court of Guam shall accept electronic filing and service of pleadings and other documents designated in this rule as valid.

(B) Unless modified by approved stipulation or order of the court, all Guam Rules of Appellate Procedure, local rules, and orders of the court shall continue to apply to cases which are subject to electronic filing.

(C) The court and clerk’s office may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of these rules.

(D) **Prohibited E-file Documents.** The following pleadings may not be e-filed shall be filed conventionally:

(i) Juvenile Cases

(ii) Sealed Documents

(E) The court may at any time mandate electronic filing and service of pleadings in designated cases. For designated cases, the court shall not accept or file any pleadings or instruments in paper form. Parties shall e-file a document either:

- (i) By registering to use the EFSP;
- (ii) In person, by electronically filing through the Public Access Terminal. Parties filing in this manner shall be responsible for furnishing the pleading or instrument on an formatted 3 ½” computer disk, CD ROM, or any other disk compatible with the clerk’s office-system to be uploaded in person.

(4) **Authorized Users**

(A) For purposes of accessing the EFSP over the Internet, the following users are authorized to register as EFSP users:

- (i) Attorneys licensed to practice law in Guam
- (ii) Pro hac vice attorneys
- (iii) Justices, judges, and their staff
- (iv) Court administrative staff, including technical support staff
- (v) Pro se litigants

(B) The public, whether or not authorized to file documents through the EFSP, may view all documents filed in the Supreme Court over the Internet through use of the electronic Library accessible at www.guamsupremecourt.com.

(5) **Effective Date**

These rules shall become effective on April 29, 2004.

(6) **Electronic Case File**

The Clerk may maintain the original and official case file in electronic format.

b) **Filing and Service Procedures**

(1) **Registration Requirements**

(A) Persons who are authorized users and who desire to e-file or e-serve shall register with the Clerk of the Supreme Court. Upon receipt of a properly executed user registration agreement, the Clerk shall assign to the user a confidential login and password to the system. No attorney or other user shall knowingly authorize or permit his or her user name or password to be utilized by anyone.

(B) Registered users of the system shall notify the Clerk within 10-days of any changes in firm name, delivery address, fax number or email address.

(2) **Time and Effect of E-Filing**

Any pleading filed electronically shall be considered as filed with the court when the transmission to the EFSP is received by the court. Any document e-filed and received by 11:59 p.m. (Chamorro Standard Time, which is GMT + 10:00) shall be deemed filed on that date. The EFSP is an agent of the court for the purpose of electronic filing, receipt, service and retrieval of electronic documents. Upon completion of filing, the EFSP shall issue a confirmation receipt that includes the date and time of receipt. The confirmation receipt shall serve as proof of filing. In the event the court rejects the submitted documents following review, the documents shall not become part of the official record and the filer will receive notification of the rejection. Users may be required to re-file the instruments to meet necessary filing requirements.

(3) **Format of Documents**

(A) All electronically filed and served pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, subject to the following exception: the rules requiring that briefs or other documents contain designated colored covers shall not apply to electronically filed documents.

(B) The electronic title of each pleading or other document shall include all information required by the applicable rules governing the particular pleading or document.

(C) All motions, papers, and briefs, or other similar documents filed electronically with the court, including all exhibits, attachments, and other like documents, whether accompanying motions, papers, or briefs, or not, shall be filed in Portable Document Format (PDF).

(D) If filing any document electronically, only one copy shall be electronically transmitted to the court, and the original must be made available upon the court's request.

(4) **Payment of Filing Fees**

(A) Registered users shall pay statutory filing fees for e-filed documents electronically to the Court through their EFSP. Filing fees are due and payable at the time of filing.

(B) The EFSP may charge registered users additional fees to deliver, access and use the service. These fees are payable to the court through the EFSP at the time of the filing and are in addition to regular filing fees.

(5) **Signatures**

(A) Every pleading, document and instrument electronically filed or served shall be deemed to have been signed by the justice, judge, clerk, attorney or declarant and shall bear a scanned facsimile or typographical signature of such person, along with the typed name, address, telephone number, and Bar number of a signing attorney. Typographical signatures shall be in the form of a conforming signature (“/s/”).

(B) In the case of a signatory who is a registered EFSP user, such document shall be deemed signed provided that such document is filed using the User Name and Password of the signatory.

(C) Documents containing signatures of third-parties (i.e., unopposed motions, affidavits, stipulations, etc.) may also be filed electronically bearing a scanned or typographical signature of the third party. In the case of a signatory who is not an EFSP user, or who is an EFSP user but whose User Name and Password will not be utilized in the electronic filing of the document, as in the case of documents requiring multiple signatures, the filer of the document shall list thereon all the names of any other signatory or signatories. The filer shall attest that concurrence in the filing of the document has been obtained from each of the other signatories, or from the single signatory (in the case, e.g., of a declaration) which shall serve in lieu of their signature(s) on the document. The filer’s attestation may be incorporated in the document itself, or take the form of a declaration to be attached to the document.

(D) Any filing made under this rule shall bind the signatory as if the document were physically signed and filed, and shall function as the signatory’s signature, whether for purposes of Rule 21.1 of the Guam Rules of Appellate Procedure, to attest to the truthfulness of an affidavit or declaration, or for any other purpose.

(E) Unless otherwise ordered by the court or clerk, a printed copy of all documents filed or served electronically, including original signatures, shall be maintained by the party filing the document and shall be made available, upon reasonable notice, for inspection by other counsel, the Clerk or Court. Parties shall retain originals until final disposition of the case and the expiration of all appeal opportunities. From time to time, it may be necessary to provide the Clerk with a hard copy of the electronically filed document.

(6) **Electronic Service**

(A) Delivery of e-service documents as permitted under these rules to other registered users shall be considered as valid and effective service and shall have the same legal effect as an original paper document. Recipients of e-service documents shall access their documents through the EFSP.

(B) E-service is accomplished by use of the other party’s or attorney’s correct and current electronic mail address as registered with the Clerk’s office. A “Notice of Electronic Filing” is generated automatically by the EFSP system upon completion of an electronic filing. The “Notice of Electronic Filing” when e-mailed

to the e-mail addresses of record in the case acts as the proof of service.

(C) E-service shall be deemed complete when the transmission to the EFSP is completed.

(D) For the purpose of computing time to respond to documents received via e-service, any document served on a day or at a time when the court is not open for business shall be deemed served at the time of next opening of the court for business. When a document is e-served, the responding party shall be given one additional day, added to the number of days provided by the applicable rule, to respond to the document.

(E) Parties who register with the Court to use the EFSP for filing documents to a case shall consent to receive e-service documents, other than service of subpoenas.

(7) System or User Filing or Service Errors

If the electronic filing or electronic service does not occur because of (1) an error in the transmission of the document to the EFSP or served party which was unknown to the sending party, (2) a failure to process the electronic document when received by the EFSP, (3) the party was erroneously excluded from the service list, or (4) other technical problems experienced by the filer or recipient, the court may upon satisfactory proof enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be filed electronically. Or in the case of service, the party shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or period within which any right, duty or other act must be performed.

(eff. 04/29/2004)

SUPREME COURT OF GUAM
APPENDIX OF FORMS

FORM 1 -- NOTICE OF APPEAL

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

A.B.,) Criminal/Civil Case No. _____
)
Plaintiff - [Appellant or Appellee,])
)
vs.) **NOTICE OF APPEAL**
)
C.D.,)
)
Defendant - [Appellant or Appellee.])
_____)

TO: THE CLERK OF THE SUPERIOR COURT OF GUAM:

Pursuant to the Rules of Appellate Procedure for the Supreme Court of Guam, notice of appeal is hereby given:

- 1) Description of the order or judgment being appealed and the date on which it was entered;
- 2) In a criminal case, a description of the offense for which the defendant-appellant was indicted and a description of the offense the defendant was convicted of and the date when the verdict was brought down;
- 3) In a criminal case, a description of the sentence imposed and whether the defendant is currently released on bail.

Dated this _____ day of _____, ____.

(Signature)

(NAME/ADDRESS)

Attorney for _____ -Appellant

2. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or other form of self-employment? [] Yes [] No
- b. Rent payments, interest or dividends? [] Yes [] No
- c. Pensions, annuities or life insurance payments? [] Yes [] No
- d. Gifts or inheritances? [] Yes [] No
- e. Any other sources? [] Yes [] No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking or savings accounts? (Include any funds in prison accounts)

[] Yes [] No

If the answer is "yes," state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

[] Yes [] No

If the answer is "yes," describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Executed on _____
(Date)

Signature of Applicant

SUBSCRIBED AND SWORN TO before me this _____ day of _____, _____.

NOTARY PUBLIC

ORDER

IT IS HEREBY ORDERED that the application is granted. Let the applicant proceed without prepayment of costs or fees or the necessity of giving security thereof.

Dated: _____

Justice for the Supreme Court of Guam
