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SUPREME COURT
OF GUAM

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5 **RE:**

) Supreme Court Case No. PRM13-003

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7 **ADOPTION OF JUDICIAL**
8 **DISQUALIFICATION FORMS FOR USE**
9 **IN THE SUPERIOR COURT OF GUAM**
10 **AND THE SUPREME COURT OF GUAM**

)
)
) **PROMULGATION ORDER**
) **NO. 13-003-01**

11 Pursuant to the authority to “make and promulgate rules governing the administration of
12 the judiciary and the practice and procedure in the courts of the judicial branch of Guam,” 48
13 U.S.C. § 1424-1(a)(6), the Supreme Court hereby adopts the standard forms attached hereto for
14 use regarding judicial disqualification.

15 **Background**

16 Administrative Rule 13-003, adopted by the Supreme Court on May 15, 2013 and
17 effective September 30, 2013, requires that when a party files an objection to the assigned
18 judge's competency pursuant to 7 GCA § 6107 and the assigned judge states in a timely filed
19 answer that he or she does not consent or admit to the disqualification, then the matter is
20 randomly assigned to a disinterested judge, who has thirty (30) days to issue a written decision
21 on the disqualification.


22 In the interest of improving efficiencies and to further streamline the judicial
23 disqualification process, in June 2013, a working group was formed comprised of Justice Robert
24 J. Torres, Presiding Judge Alberto C. Lamorena, III, Judge Michael J. Bordallo, Judge Arthur R.
25 Barcinas, Judge Maria T. Cenzone, Bruce Bradley, Richard Martinez, and B. Ann Keith. The
26 working group undertook a review of the process of judicial disqualification in the trial courts
27 as well as the appellate court, to include consideration of the substantive law and judicial canons
28 relevant to judicial disqualification as well as the procedural process of judicial disqualification.

1 The working group determined that the judicial disqualification process will likely be
2 more efficient and effective if standard forms are used in judicial disqualification situations.
3 The working group developed draft forms for preliminary consideration by this court, and for
4 review and comment by members of the Guam Bar Association. Following a notice and
5 comment period to Guam Bar Association members, and upon consideration by the working
6 group of all comments submitted, a final proposal was made to this court recommending
7 adoption of standard judicial disqualification forms for the Superior Court of Guam and the
8 Supreme Court of Guam to be used in judicial disqualification situations.

9 **THEREFORE**, upon proper consideration of the working group's recommendation that
10 the attached forms be adopted by this court, the attached judicial disqualification forms are
11 hereby **ADOPTED**, effectively immediately. Justices, Judges, and Parties shall use the
12 standard forms, as required, in all cases where 7 GCA § 6105 or 7 GCA § 6106 are
13 implicated.

14
15 **SO ORDERED** this 21st day of November, 2013.

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20 **ROBERT J. TORRES**
Associate Justice

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22 **KATHERINE A. MARAMAN**
Associate Justice

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25 **F. PHILIP CARBULLIDO**
Chief Justice

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IN THE SUPERIOR COURT OF GUAM

)	Case No. _____
)	
Plaintiff(s),)	FORM ONE -- DISQUALIFICATION
)	
vs.)	7 GCA § 6106 Memorandum
)	
)	[For use by Judges]
Defendant(s).)	
_____)	

The undersigned, having knowledge of facts which, under the provisions of 7 GCA § 6105, disqualify me from sitting or acting as the judge in this case, declared the same in open court on _____ (Date) at a properly noticed hearing. The facts are as follows, or are attached:

Therefore, in accordance with 7 GCA § 6106, a copy of this Memorandum shall be transmitted by the clerk to each party or attorney who has appeared in this action.

Pursuant to 7 GCA § 6105 and Canons 3E and 3F of the Model Code of Judicial Conduct:

- I will continue to sit on this case if all parties file written agreements waiving this disqualification within fourteen (14) days of the filing of this Memorandum. (Form Two, or a document substantively similar to it, shall be used to agree.) If the parties do not file written agreements waiving disqualification, the case will be reassigned to another judge.
- I will not accept agreements to continue to hear this matter. The case will be reassigned to another judge.

Dated this _____ day of _____, 20_____.

Honorable
JUDGE, SUPERIOR COURT OF GUAM

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IN THE SUPERIOR COURT OF GUAM

)	Case No. _____
)	
Plaintiff(s),)	FORM TWO –
)	DISQUALIFICATION
vs.)	7 GCA § 6105 Agreement
)	
)	[For use by Parties]
Defendant(s).)	
_____)	

On _____, 20____, the judge assigned in this case filed a memorandum (Form One – Disqualification) pursuant to 7 GCA § 6106. In the memorandum, the judge stated his or her disqualification based on facts declared in open court and articulated in the memorandum. However, the judge indicated that if, following complete disclosure to all parties in the proceeding of the reasons for the judge’s disqualification, all parties agree to waive the disqualification, the judge need not be disqualified.

THEREFORE, upon full consideration by the undersigned party or parties of the facts supporting the judge’s disqualification, the undersigned party or parties in accordance with 7 GCA § 6105 and Canons 3E and 3F of the Model Code of Judicial Conduct AGREE, and hereby waive in writing the judge’s disqualification.

Dated this ____ day of _____, 20_____.

Signature

Counsel for (print names of all parties represented)

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IN THE SUPERIOR COURT OF GUAM

)	Case No. _____
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Plaintiff(s),)	FORM THREE -- DISQUALIFICATION
vs.)	Notice of Potentially
)	Disqualifying Facts
)	
Defendant(s).)	[For use by Judges]
)	

The undersigned, having knowledge of facts which, under the provisions of 7 GCA § 6105, I do not believe disqualify me from sitting or acting as the judge in this case, hereby provide notice of such facts in the interest of transparency, and in the best interests of justice.

The facts are as follows, or are attached:

A party who wishes to pursue my disqualification based on these facts must file their objection to competency pursuant to 7 GCA § 6107 within fourteen (14) days of the filing of this notice for such objection to be considered timely.

Dated this ____ day of _____, 20_____.

Honorable
JUDGE, SUPERIOR COURT OF GUAM

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IN THE SUPREME COURT OF GUAM

)	Case No. _____
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Appellant(s),)	FORM THREE -- DISQUALIFICATION
)	
vs.)	Notice of Potentially
)	Disqualifying Facts
)	
Appellee(s).)	[For use by Justices]
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The undersigned, having knowledge of facts which, under the provisions of 7 GCA §6105, I do not believe disqualify me from sitting or acting as a justice in this case, hereby provide notice of such facts in the interest of transparency, and in the best interests of justice. The facts are as follows, or are attached:

A party who wishes to pursue my disqualification based on these facts must file their objection to competency pursuant to 7 GCA § 6107 within fourteen (14) days of the filing of this notice for such objection to be considered timely.

Dated this ____ day of _____, 20__.

JUSTICE, SUPREME COURT OF GUAM

IN THE SUPREME COURT OF GUAM

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) Case No. _____
)
Appellant(s),) FORM TWO - DISQUALIFICATION
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vs.) 7 GCA § 6105 Agreement
)
Appellee(s).) [For use by Parties]
_____)

On _____, 20__, Justice _____, a member of the panel assigned to this case, filed a memorandum (Form One - Disqualification) pursuant to 7 GCA § 6106. In the memorandum, the justice stated his or her disqualification based on facts declared in open court and articulated in the memorandum. However, the justice indicated that if, following complete disclosure to all parties in the proceeding of the reasons for the justice's disqualification, all parties agree to waive the disqualification, the justice need not be disqualified.

THEREFORE, upon full consideration by the undersigned party or parties of the facts supporting the justice's disqualification, the undersigned party or parties in accordance with 7 GCA § 6105 and Canons 3E and 3F of the Model Code of Judicial Conduct AGREE, and hereby waive in writing the justice's disqualification.

Dated this ____ day of _____, 20__.

Signature

Counsel for (print names of all parties)

IN THE SUPREME COURT OF GUAM

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)	Case No. _____
)	
Appellant(s),)	FORM ONE -- DISQUALIFICATION
)	
vs.)	7 GCA § 6106 Memorandum
)	
)	
Appellee(s),)	[For use by Justices]
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The undersigned, having knowledge of facts which, under the provisions of 7 GCA §6105, disqualify me from sitting or acting as a justice in this case, declared the same in open court on _____ (Date) at a properly noticed hearing. The facts are as follows, or are attached:

Therefore, in accordance with 7 GCA § 6106, a copy of this Memorandum shall be transmitted by the clerk to each party or attorney who has appeared in this action.

Pursuant to 7 GCA § 6105 and Canons 3E and 3F of the Model Code of Judicial Conduct:

- I will continue to sit as a panel member on this case if all parties file written agreements waiving this disqualification within fourteen (14) days of the filing of this Memorandum. (Form Two, or a document substantively similar to it, shall be used to agree.) If the parties do not file written agreements waiving disqualification, I am disqualified from this matter.
- I will not accept agreements to continue to hear this matter and am therefore disqualified.

Dated this _____ day of _____, 20__.

JUSTICE, SUPREME COURT OF GUAM