

*1 Minu Trental Knitro Na Lihelaturan Guahan*  
**APPOINTMENTS**

DOCUMENT NO.	APPOINTEE	POSITION	AGENCY	APPT. DATE	TERM LENGTH	CMTE REFERRED	DATE REFERRED	PUBLIC HEARING DATE	CMTE REPORT FILED	DATE CONFIRMED	NOTES
35GL-19-1269	Dana A. Gutierrez	Judge	Superior Court of Guam	11/27/19		Committee on Health, Tourism, Historic Preservation, Land, and Justice	11/29/19	5/20/20 1:00 p.m.	6/1/20 9:17 a.m.		



**SENATOR THERESE M. TERLAJE**

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina' trentai Singko na Liheslaturan Guåhan*

35<sup>th</sup> Guam Legislature

May 26, 2020

The Honorable Tina Rose Muña Barnes

Speaker

I Mina' trentai Singko na Liheslaturan Guåhan

163 Chalan Santo Papa

Hagåtña Guam, 96910

VIA: The Honorable Régine Biscoe Lee *RBA*  
Chairperson, Committee on Rules

RE: Committee Report on the Appointment of Dana A. Gutierrez; Judge; Superior Court of Guam  
*Håfa Adai* Speaker Barnes:

Transmitted herewith is the Committee Report on the appointment of Dana A. Gutierrez to serve as a Judge of the Superior Court of Guam, and which was referred to the Committee on Health, Tourism, Historic Preservation, Land and Justice.

Committee votes are as follows:

- 8 TO CONFIRM
- 0 TO NOT CONFIRM
- 0 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE

**COMMITTEE ON RULES**

**RECEIVED:**

MAY 26, 2020

12:50 P.M.

Revisions Rec'd:

•5/29/20 @ 12:31 P.M.

Sincerely,

*Therese M. Terlaje*  
Therese M. Terlaje  
Chairperson

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlaje@guam@gmail.com](mailto:senatorterlaje@guam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



**SENATOR THERESE M. TERLAJE**

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' trentai Singko na Libeslaturan Guåhan*  
35<sup>th</sup> Guam Legislature

# **COMMITTEE REPORT**

# **Nomination of Dana A. Gutierrez**

To serve as Judge; Superior Court of Guam

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Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlaje@guamcgmail.com](mailto:senatorterlaje@guamcgmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



## SENATOR THERESE M. TERLAJE

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mind' trentai Singko na Liheslaturan Guåhån*  
35<sup>th</sup> Guam Legislature

May 25, 2020

### MEMORANDUM

**To:** All Members  
Committee on Health, Tourism, Historic Preservation, Land and Justice

**From:** Senator Therese M. Terlaje  
Committee Chairperson

**Subject:** Committee Report on the Appointment of Dana A. Gutierrez

Transmitted herewith for your consideration is the Committee Report on the appointment of Dana A. Gutierrez to serve as a Judge of the Superior Court of Guam.

This report includes the following:

- Copy of COR Referral of the Appointment
- Copy of the Appointment Letter to the Speaker
- Copy of the Appointment Packet & Supporting Documents
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Submitted Written Testimonies & Supporting Documents
- Committee Report Digest
- Committee Vote Sheet
- Related News Reports

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os Ma'åse'!*

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Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

Senator Régine Biscoe Lee,  
Chair

Senator Amanda L. Shelton,  
Vice Chair

Speaker Tina Rose Muña Barnes,  
Member

Vice Speaker Telena Cruz Nelson,  
Member

Senator Kelly Marsh (Taitano), PhD,  
Member

Senator Sabina Flores Perez,  
Member



**COMMITTEE ON RULES**  
**I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN**  
**35<sup>TH</sup> GUAM LEGISLATURE**

November 29, 2019

Senator Clynton E. Ridgell,  
Member

Senator Joe S. San Agustín,  
Member

Senator Jose "Pedro" Terlaje,  
Member

Senator Therese M. Terlaje,  
Member

Senator James C. Moylan,  
Member

Senator Mary Camacho Torres,  
Member and Chair, Subcommittee on Protocol

## MEMO

**To:** Rennae Meno  
Clerk of the Legislature

**Attorney Ana Won Pat-Borja**  
Legislative Legal Counsel

**From:** Senator Régine Biscoe Lee  
Chair, Committee on Rules

**Re:** Referral of Appointment

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*Buenas yan Háfa adai.*

As Chair of the Committee on Rules, I am forwarding the referral of the following appointment:

**Appointee:** Dana A. Gutierrez  
**Position:** Judge, Superior Court of Guam

The appointee's nomination packet may be referenced in the Guam Legislature's website at <http://guamlegislature.com/index/messages-and-communications/>. Please refer to the follow document:

**"35GL-19-1269 – Office of the Governor of Guam – Appointment and Supporting Documents for Dana A. Gutierrez, Judge, Superior Court of Guam."**

Please ensure that the aforementioned appointment is referred to the **Committee on Health, Tourism, Historic Preservation, Land and Justice** chaired by Senator Therese M. Terlaje.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this matter.

Respectfully,

Handwritten signature of Senator Régine Biscoe Lee in black ink.

Senator Régine Biscoe Lee  
Chair, Committee on Rules

1 *Minor Territorial Leaders & Librarians/Guides*  
APPOINTMENTS

15GL-19-1269	Dana A. Gutierrez	Judge	Superior Court of Guam	11/27/19		Committee on Health, Tourism, Historic Preservation, Land, and Justice	11/29/19				
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Note that the Legislature has taken steps to ensure that any protected personal identifying information has been redacted or excluded in whole or in part in order to protect the privacy of any individual(s) whose information has been included as part of this transmittal.

OFISINAN I MAGA HAGA  
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO  
MAGA HAGA - GOVERNOR



JUSTINA F. TENOLIO  
SIGUNDO MAGA HAGA - DEPUTY GOVERNOR

November 27, 2019

Honorable Tina Rose Muña Barnes  
Speaker  
*I Mina'trentai Singko Na Liheslaturan Guahån*  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 96932

356L-19-1269  
Speaker Tina Rose Muña Barnes

NOV 27 2019  
Time 4:39 ( ) AM / PM  
Received By: Alon

Vertical handwritten text on the right margin, possibly a date or initials.

**RE: Judicial Appointment**

Dear Madame Speaker:

By virtue of the authority vested in me pursuant to the Organic Act of Guam and the local laws applicable to the following position, I am pleased to transmit the following appointment and supporting documents for:

APPOINTEE: Dana A. Gutierrez  
POSITION: Judge, Superior Court of Guam

The appointment is subject to the consent of *I Liheslaturan Guahån*. Please schedule a hearing at your earliest convenience.

*Senseramente,*

**LOURDES A. LEON GUERRERO**  
*I Maga'hagan Guåhan*  
Governor of Guam

cc: Lt. Governor of Guam  
Chief Justice, Supreme Court of Guam  
Presiding Judge, Superior Court of Guam

UFISINAN I MAGA'HAGA  
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO  
MAGA'HAGA • GOVERNOR



JOSHUA F. TENORIO  
SIGUNDO MAGA'LÄHEN • EIGHTH TERM GOVERNOR

November 27, 2019

**DANA A. GUTIERREZ**  
[REDACTED]

Dear Ms. Gutierrez:

Pursuant to my authority under 7 GCA § 3109, I am appointing you to serve as a:

***JUDGE, Superior Court of Guam***

Those who advance the cause of justice must be diligent, thorough, and dedicated in their efforts. I know these are characteristics you have demonstrated throughout your career and I am confident that you will continue to do so while holding this critical office. I thank you for your willingness to serve our island in the third branch of government and I look forward to addressing you as, "Your Honor."

This appointment is subject to the advice and consent of *I Liheslaturan Guåhan*. If you have any questions or concerns, please contact the Office of the Governor.

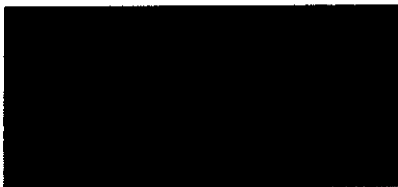
*Senseramente,*

**LOURDES A. LEON GUERRERO**  
*I Maga'hågan Guåhan*  
Governor of Guam

cc: *Sigundo Maga'låhen Guåhan*  
Chief Justice of Guam  
Presiding Judge, Superior Court of Guam



CALVO FISHER & JACOB LLP



**LETTER OF TRANSMITTAL**

**TO:** Sophia S. Diaz, Esq.  
**Legal Counsel, Office of the Governor**  
Ricardo J. Bordallo Governor's Complex  
Hagåtña, Guam 96910

**FROM:** Dana A. Gutierrez, Esq.

**DATE:** November 27, 2019

**RE:** **JUDGE, SUPERIOR COURT OF GUAM**

**VIA:** Hand Delivery

**THE FOLLOWING:**

**DESCRIPTION:**

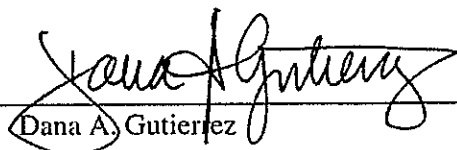
1. (Original) Nomination and Appointment Information Sheet; and
2. Resume.

**ARE TRANSMITTED HEREWITH:**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> For your information                  | <input checked="" type="checkbox"/> Per our conversation | <input type="checkbox"/> For payment                                  |
| <input type="checkbox"/> For your files                        | <input type="checkbox"/> For review & comment            | <input type="checkbox"/> For correction                               |
| <input type="checkbox"/> Per your request                      | <input type="checkbox"/> For necessary action            | <input type="checkbox"/> For signature & forwarding<br>as noted below |
| <input type="checkbox"/> For your approval                     | <input type="checkbox"/> For filing in court             |   |
| <input type="checkbox"/> Return executed copy to<br>our office | <input type="checkbox"/> For return                      |   |
|  | <input type="checkbox"/> See remarks below               |   |

**REMARKS**

Enclosed is my original Nomination and Appointment Information Sheet ("Nomination Sheet") and Resume, which supports the Nomination Sheet. If you require additional information, please do not hesitate to contact me. Thank you.

By:   
Dana A. Gutierrez

**LOURDES A. LEON GUERRERO**  
Governor



**JOSHUA F. TENORIO**  
Lieutenant Governor

**OFFICE OF THE GOVERNOR OF GUAM**  
**Nomination and Appointment Information Sheet**

The following information is required for submission to the Speaker of *I Liheslaturan Guåhan* in accordance with Title 4, Guam Code Annotated Section 2103

**NOMINEE INFORMATION**

<b>Last Name</b> Gutierrez	<b>First Name</b> Dana	<b>Middle Initial</b> A
<b>Mailing Address</b> [REDACTED]		<b>Apartment/Unit #</b> [REDACTED]
<b>City</b> [REDACTED]	<b>State</b> [REDACTED]	<b>Zip Code</b> [REDACTED]
<b>Phone</b> [REDACTED]	<b>E-mail Address</b> [REDACTED]	
<b>Position to which Appointment is Made</b> Judge, Superior Court of Guam		
<b>Are you a citizen of the United States?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>If no, are you authorized to work in the United States?</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		

**EDUCATION**

<b>SCHOOL (Name, City and State)</b>	<b>DATES OF ATTENDANCE</b>	<b>TYPE OF DEGREE</b>	<b>YEAR EARNED</b>
<b>High School</b> Bishop Baumgartner Junior High School Academy of Our Lady of Guam	1985-1986 1986-1989	High School Diploma	1989
<b>College</b> University of Southern California	August 1989 - May 1993	Bachelor of Arts	1993
<b>Graduate School</b> University of Southern California Gould School of Law	August 1994 - May 1997	Juris Doctorate	1997
<b>Other Degree</b>			

### EMPLOYMENT HISTORY

<b>Name of Present/Last Employer and Mailing Address</b> Calvo Fisher & Jacob LLP 259 Martyr Street, Ste. 100 Hagåtña, Guam 96910	<b>Position Title</b> Of Counsel
	<b>Dates Held</b> September 2016 - Present

<b>Previous Employer and Mailing Address</b> Thompson Gutierrez & Alcantara 238 Archbishop Flores St., Ste. 801 Hagåtña, Guam 96910	<b>Position Title</b> Partner
	<b>Dates Held</b> January 2014 - June 2015

<b>Previous Employer and Mailing Address</b> Mair, Mair, Spade & Thompson 238 Archbishop Flores St., Ste. 801 Hagåtña, Guam 96910	<b>Position Title</b> Partner
	<b>Dates Held</b> December 2006 - December 2013

<b>Previous Employer and Mailing Address</b> Mair, Mair, Spade & Thompson 238 Archbishop Flores St., Ste. 801 Hagåtña, Guam 96910	<b>Position Title</b> Associate
	<b>Dates Held</b> June 2005 - November 2006

<b>Previous Employer and Mailing Address</b> Carlsmith Ball LLP 134 W. Soledad Ave., Ste. 401 Hagåtña, Guam 96910	<b>Position Title</b> Associate
	<b>Dates Held</b> August 1997 - July 2003

### PRIOR GOVERNMENT OF GUAM SERVICE

<b>Agency or Department Name</b> Judiciary of Guam		<b>Position Title</b> Director of Policy, Planning & Community Relations
<b>Address</b> Guam Judicial Center, 120 West O'Brien Drive, Hagåtña, Guam 96910	<b>Phone No.</b> 475-3544	<b>Dates Held</b> July 2015 - September 2016

<b>Agency or Department Name</b> University of Guam		<b>Position Title</b> Executive Assistant to the President Legal Counsel
<b>Address</b> UOG Station, Mangilao, Guam 96913	<b>Phone No.</b> 735-2990	<b>Dates Held</b> July 2003 - May 2005

**PRIOR GOVERNMENT SERVICE (EXCLUDING GOVERNMENT OF GUAM)**

<b>Agency or Department Name</b>		<b>Position Title</b>	
<b>Address</b>	<b>Phone No.</b>	<b>Dates Held</b>	

<b>Agency or Department Name</b>		<b>Position Title</b>	
<b>Address</b>	<b>Phone No.</b>	<b>Dates Held</b>	

**TRAINING**

<b>INSTITUTE/SEMINARS/ON-THE-JOB TRAINING</b>	<b>DATE</b>

**AWARDS**

<b>List all educational, professional, civic awards, and recognition for public service:</b>
See attached Resume.

**PROFESSIONAL INVOLVEMENT**

<b>List involvement on a local/national/international level. List organizations, activities participated in, and offices held:</b>
Secretary, Guam Solid Waste Authority Board of Directors (2019 - Present) President-Elect, Society for Human Resource Management (Guam) (2019 - Present) Vice President (Legislative Affairs), Society for Human Resource Management (Guam) (2015 - 2018) Member at Large, Guam Bar Association Board of Governors (2013 - 2016) Member, Guam Chamber of Commerce (Guam Young Professionals) (2010 - 2012) Member, Guam Bar Association Law Week Committee (2008 - Present) Treasurer & Trustee, Guam Law Library Board of Trustees (2000 - 2006, 2015 - 2017)

### COMMUNITY / CIVIC INVOLVEMENT

List organizations, activities participated in, and offices held.

Member, Board of Directors, Guam Girl Scouts (2012 - 2013)

### PUBLICATIONS AND PRESENTATIONS

List any published articles, papers delivered at professional meetings, etc.

See attached Resume.

### MILITARY SERVICE (Please attach Form DD-214)

BRANCH	DATES OF SERVICE	RANK AT DISCHARGE	TYPE OF DISCHARGE

### OTHER INFORMATION

(1) Have you ever been found guilty of a felony in any court, whether within or without the United States?

Yes  No  If so, please specify in detail: \_\_\_\_\_

Address of the Court: \_\_\_\_\_

Date(s) of Conviction: \_\_\_\_\_

Specific Infraction Committed: \_\_\_\_\_

**(2) Have you ever been declared mentally incompetent by any court, whether within or without the United States?**

Yes  No  If so, please specify in detail the reasons and facts related to such declaration:

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**(3) Have you ever been found not guilty or not punishable in any criminal proceedings by reason of insanity?**

Yes  No

**(4) Have you ever been confined to a mental institution for any reason?**

Yes  No  If so, please specify in why the appointing authority believes you that you are not suffering from any mental illness or affliction:

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**LOURDES A. LEON GUERRERO**  
Governor



**JOSHUA F. TENORIO**  
Lieutenant Governor

**OFFICE OF THE GOVERNOR OF GUAM**

**Statement of Financial Interests**  
(Required by 4 C.C.A. §13104.1)

TO: The Honorable Lourdes A. Leon Guerrero  
Governor of Guam  
Ricardo J. Bordallo Governor's Complex  
Adelup, Guam 96910

FROM: Dana A. Gutierrez

I have no financial interest in any business

I do have interest(s) in the following business(es):

NAME AND ADDRESS OF BUSINESS INTEREST	TYPE AND AMOUNT OF INTEREST


Signature

11.27.19  
Date

**AFFIDAVIT / DECLARATION UNDER PENALTY OF PERJURY**

I, the undersigned, do hereby depose and say that: (1) I have read and reviewed the information contained in the attached Appointment/Nomination letter from the Governor of Guam; (2) that the matters contained in the Appointment/Nomination letter, together with all attachments thereto, are true and correct and that I am competent to testify to said matters; and (3) that this Declaration is made for the purpose of complying with the requirements of 4 G.C.A. Section 2103.5.

I declare under penalty of perjury under the laws of Guam (4 G.C.A. Section 4308) that the foregoing is true and correct.

Dana A. Gutierrez   
Print Name and Signature

11.27.19  
Date



# DANA A. GUTIERREZ

## Professional Experience

**Calvo Fisher & Jacob LLP**  
*Of Counsel*

September 2016 – Present

**Judiciary of Guam**  
*Director of Policy, Planning & Community Relations*

July 2015 – September 2016

**Thompson Gutierrez & Alcantara**  
*Partner*

January 2014 – June 2015

**Mair, Mair, Spade & Thompson**  
*Partner*  
*Associate*

June 2005 – December 2013

**University of Guam**  
*Executive Assistant to the President*  
*Legal Counsel*

July 2003 – May 2005

**Carlsmith Ball LLP**  
*Associate*

August 1997 – July 2003

## Education

**University of Southern California Gould School of Law**  
*Juris Doctorate*  
Activities: Review of Law & Women's Studies

August 1994 – May 1997

**University of Southern California**  
*Bachelor of Arts, Political Science & East Asian Area Studies*  
Honors: Magna Cum Laude, Phi Beta Kappa,  
Blackstonians Pre-Law Honor Society

August 1989 – May 1993

## Representative Matters

### CORPORATE & CIVIL

**Acquisitions:** Perform and advise on due diligence reviews related to acquisition and sale of business including licensing, permitting and security interests (UCC filings).

**Commercial Real Estate:** Prepare and advise on documentation for the financing, sale and mortgage of real property on behalf of sellers and buyers. Review and prepare lease agreements, amendments and assignments.

**Corporate Advice:** Assist clients in preparing documentation and obtaining licenses to operate in Guam. Form, advise and maintain corporations and limited liability companies. Review and prepare documentation related to company sale, purchase or merger. Advise and represent corporate clients and boards.

**Insurance:** Advise clients on compliance with federal and local insurance laws and regulations. Review and prepare policies of insurance and related insurance documents. Assist with negotiations for government health insurance contracts.

**LABOR & EMPLOYMENT**

**Equal Employment Opportunity:** Counsel and represent clients in responding to charges of discrimination and harassment filed with local and federal agencies. Represent clients in mediation. Represent clients in discrimination and harassment lawsuits.

**Investigations:** Advise clients in conducting investigation of complaints, including discrimination and harassment cases, and fashion disciplinary and other remedial measures.

**Personnel Management:** Assist companies with drafting employee handbooks, job descriptions, employment contracts and workplace policies and procedures. Counsel clients on hiring and termination practices.

**Wage and Hour:** Advise companies on overtime payment rules and exempt/non-exempt status of employees to ensure compliance with wage and hour laws. Represent contractors in prevailing wage and back wage investigations. Represent clients in wage and hour lawsuits.

**Wrongful Termination:** Represent clients in defending wrongful discharge claims. Draft separation and release agreements related to termination disputes.

**GOVERNMENT**

**Governance:** Provide advice to agencies and boards on matters relating to compliance with local and federal laws and regulations. Review and draft policies, procedures and standard operating procedures. Advise on personnel matters and represent management in grievances, mediations and adverse action appeals. Prepare and defend requests for information under Guam Sunshine Act.

**Legislation:** Review and analyze proposed legislation. Prepare written testimony in support of and in opposition to legislation.

**Procurement:** Represent private companies and government entities in protests and in analyzing procurement issues. Negotiate and prepare procurement contracts.

**Professional/  
Community  
Activities**

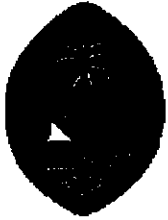
<b>Guam Solid Waste Authority Board of Directors</b> <i>Secretary</i>	2019-Present
<b>Society for Human Resource Management (Guam Chapter)</b> <i>President-Elect</i>	2019-Present
<b>Society for Human Resource Management (Guam Chapter)</b> <i>Vice President (Legislative Affairs)</i>	2015-2018
<b>Guam Bar Association Board of Governors</b> <i>Member at Large</i>	2013-2016
<b>Guam Girl Scouts Board of Directors</b> <i>Member</i>	2012-2013

	<b>Guam Chamber of Commerce (Guam Young Professionals)</b> <i>Member</i>	2010-2012
	<b>Guam Bar Association Law Week Committee</b> <i>Member</i>	2008-Present
	<b>Guam Law Library Board of Trustees</b> <i>Treasurer &amp; Trustee</i>	2000-2006, 2015-2017
<b>Publications</b>	<b>Marianas Business Journal</b> <i>"Guam's Fair Chances Hiring Process Act Is Upon Us"</i>	October 16, 2018
	<b>Guam HR Magazine</b> <i>"Can You Fire Someone Without Getting Sued?"</i>	2018-2019
	<b>Guam HR Magazine</b> <i>"Did You Know . . . Some OOGs for HR in Guam"</i>	2017-2018
<b>Training/ Presentations</b>	<b>Guam Chamber of Commerce (Guam Young Professionals)</b> <i>"Implications of Marijuana Laws in the Workplace"</i>	April 25, 2019
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Beyond #MeToo: Putting Your Sexual Harassment Knowledge Into Practice"</i>	February 6, 2019
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"2018 Employment Law Update"</i> <i>"Creating Documentation to Withstand the Scrutiny of a Judge or Jury"</i>	May 2, 2018
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Guam Family and Medical Leave Act"</i> <i>"The Fair Chances Hiring Process Act"</i>	November 8, 2017
	<b>Society for Human Resource Management (CNMI Chapter)</b> <i>"2017 Employment Law Update"</i>	July 27, 2017
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"2017 Employment Law Update"</i>	July 12, 2017
	<b>District Court of Guam Conference</b> <i>"Implications of Marijuana Laws in the Workplace"</i>	February 9, 2017
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Employment Law Update"</i>	February 8, 2017
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Employment Law Developments"</i>	October 7, 2016

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	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Employment Law Update"</i>	May 8, 2016
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Employment Law Update"</i>	May 6, 2015
	<b>Marianas Business Journal Conference</b> <i>"When Does Your Workplace Qualify as Hostile"</i>	April 17, 2015
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"Employee Disputes In and Outside the Workplace"</i>	March 5, 2014
	<b>Judiciary of Guam</b> <i>"Workplace Investigations: How to Conduct an Effective (and Defensible) Investigation"</i>	July 7, 2011
	<b>Guam Contractors Association</b> <i>"The Importance of Being Licensed"</i>	June 15, 2011
	<b>Society for Human Resource Management (Guam Chapter)</b> <i>"How to Conduct Effective Workplace Investigations"</i>	June 14, 2010
	<b>Human Resource Risk Management Seminar</b> <i>"Vacation and Leave: Managing Disputes and Disagreements Over Leave-Related Issues"</i>	October 24, 2008
	<b>Human Resource Risk Management Seminar</b> <i>"Loss Prevention and Safeguards"</i>	September 21, 2007
<b>Teaching Experience</b>	<b>Guam Community College</b> <i>Adjunct Professor, Employment Law</i>	Fall 2018

Note that the Legislature has taken steps to ensure that any protected personal identifying information has been redacted or excluded in whole or in part in order to protect the privacy of any individual(s) whose information has been included as part of this transmittal.



**Government of Guam  
GUAM POLICE DEPARTMENT  
RECORDS & IDENTIFICATION SECTION  
P.O. Box 23909  
Guam Main Facility, Guam 96921**



November 19, 2019

**SUBJECT: CRIMINAL HISTORY RECORD**

<b>NAME:</b>	<b>Dana Ann GUTIERREZ</b>		
<b>DATE OF BIRTH:</b>		<b>FINGERPRINT #</b>	<b>NONE</b>
	<b>The individual has no record of criminal conviction(s) in GPD files that are subject to Guam law and rules and regulations of the Department.</b>		

\*\*\*\*\*NOTHING FOLLOWS\*\*\*\*\*

*THIS INFORMATION MAY BE LIMITED TO A LOCAL CRIMINAL OFFENSE ONLY AND IS NOT INTENDED FOR USE FOR ANY LOCAL, STATE, OR FEDERAL LAW ENFORCEMENT AGENCY.*

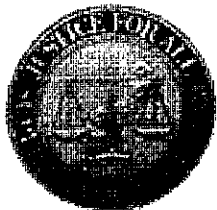


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REVISED 11/26/2019

By Direction: **BARBIE**



**STEPHEN C. IGNACIO  
Chief of Police**



# SUPERIOR COURT OF GUAM

Guam Judicial Center • 120 West O'Brien Drive • Hagatña, Guam 96910

Telephone (671) 475-3370/475-3449

Fax (671) 472-2856

**DANIELLE T. ROSETE**  
Clerk of Court

Name: **DANA A. GUTIERREZ**

ID #



Date of Birth:



## CERTIFICATE OF SEARCH

The undersigned Clerk hereby certifies the following results of a diligent search of the records of this Court:

### Criminal Cases:

- A.  No Case Found
- B. 1. Criminal Case No.
- 2. Criminal Case No.
- 3. Criminal Case No.
- 4. Criminal Case No.
- 5. Criminal Case No.

Criminal Record: Page 1 of 1

### Civil Cases:

- A.  No Case Found
- B. 1. Civil Case No.
- 2. Civil Case No.
- 3. Civil Case No.
- 4. Civil Case No.
- 5. Civil Case No.

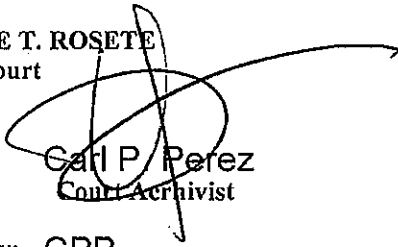
Civil Record: Page 1 of 1

Request for further information may be addressed at the Records Division of the Superior Court of Guam, Guam Judicial Center, 120 West O'Brien Drive, Hagatña, Guam. Hours of operation are Monday – Friday, 8:00 a.m. to 5:00 p.m. Closed Saturday, Sunday and local/federal holidays. Court Clearances are Non-Refundable.

Dated: 11/20/2019

**DANIELLE T. ROSETE**  
Clerk of Court

BY:

  
Carl P. Perez  
Court Archivist

Prepared By: CPP



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M&C Fwd: Judicial Appointment Request

1 message

Tue, Feb 25, 2020 at 10:41 AM

Speaker's Office <speaker@guamlegislature.org>  
To: Clerks Office <clerks@guamlegislature.org>  
Cc: Rennae Mena <rennae@guamlegislature.org>  
Bcc: Tina Muna Barnes <inamunabarnes@gmail.com>

02-24-20	4:44 PM	02-21-20	Judicial Appointment Request,*	Office of the Governor of Guam	35GL-20-1584
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Sinseru yan Minagáhet,

Office of the Speaker • Tina Rose Muña Barnes  
Committee on Public Accountability, Human Resources & the Guam Bulldog

35th Guam Legislature  
I Miná'tental Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagåtña, GU 96910  
T: (671) 477-2520x1  
speaker@guamlegislature.org

35GL-20-1584  
Speaker Tina Rose Muña Barnes

FEB 24 2020  
11:46  
Time 11AM (APW)  
Received By: Mart

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Guña pribilehu yan kontidensial este silha na mensáhi. Solo espesámente para hagu ma entensáha pa ma atunaa para sersibi. Sen prohibu kumta ti un ma atunaa para manelusa, ma'behe, pa mandepascha. Yanggen laha unhibu-ma ma este na mensáhi, pa ubot ego' gusa g' i noma'hu'ong g' a speaker@guamlegislature.org yan despues de'terme tola silha i koptan mensáhi. Si Yu'ot ma'behe.

Forwarded message

From: <june.borja@guam.gov>  
Date: Mon, Feb 24, 2020 at 4:44 PM  
Subject: Judicial Appointment Request  
To: <speaker@guamlegislature.org>  
Cc: Governor Lourdes A. Leon Guerrero <governor@guam.gov>, Lt. Governor Joshua F. Tenorio <joshua.tenorio@guam.gov>, Sophia Santos Diaz <sophia.diaz@guam.gov>, Halg Huynh <halg.huynh@guam.gov>, Tricia T. Guzman <tricia.guzman@guam.gov>, <pcarbulido@guamsupremecourt.com>, <senatorlorioleguam@gmail.com>, <dgularruz@calwhofisher.com>, Eliza G. Dames <eliza.dames@guam.gov>, Shanna L.A. Chargualaf (Chamber) <shanna.chargualaf@guam.gov>, Dorothy Blas <dorothy.blas@guam.gov>, Josephine C. Cepeda (Chamber) <josephine.cepeda@guam.gov>, <nichole.duenas@guam.gov>, <carlino@guamsupremecourt.com>

Hafa Adal Madamo Speaker,

Please find a copy of the attached letter dated February 21, 2020 from the Honorable Lourdes A. Leon Guerrero, I Maga'hagan Guåhan regarding the above matter.

The original hard copy of the letter will be hand delivered to your office tomorrow morning, February 25, 2020.

Thank you.

Sincerely,



June M.C. Borja  
Administrative Services Officer  
Legal Office, Office of the Governor of Guam  
Ricardo J. Bordonio Governor's Complex  
Adelup, Guam 96910  
P.O. Box 2950, Hagåtña, Guam 96932  
Telephone No.: (671) 475-9475  
Facsimile No.: (671) 475-9480

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20.0221 GOV to SPEAKER BARNES re Judicial Appointment Request.pdf  
54K

1584

OFISINAN I MAGA'HAGA  
OFFICE OF THE GOVERNOR

LOURDES A. LLON GUERRERO  
MAGA'HAGA - GOVERNOR



JOSHUA F. TENORIO  
SIGURDO MAGA'LANG - HEDDITAGAL GOVERNOR

Via Hand Delivery

February 21, 2020

**HONORABLE TINA ROSE MUÑA BARNES**

Speaker

*I Mina'trentai Singko Na Liheslaturan Guåhan*

35<sup>th</sup> Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

**Re: Judicial Appointment Request**

Dear Madame Speaker,

On November 21, 2019, I appointed Dana A. Gutierrez to the position of Judge of the Superior Court of Guam. Her appointment was made to satisfy a need certified by the Judicial Council for an additional judicial officer for the Superior Court. That need had first been certified in 2016 and was reiterated in Judicial Council resolutions in 2018 and 2019.

Today, Chief Justice F.Philip Carbullido informed me that the Judicial Council authorized the certification of an immediate need to fill the vacancy left by Judge Michael J. Bordallo, who resigned to take a federal magistrate judgeship.

In light of the immediate critical need to fill the vacancy left by Judge Bordallo, it is my intent now to appoint Ms. Gutierrez to that position. I, therefore, ask that the Legislature act with all due haste to ensure that the Superior Court is not forced to operate with just six judges for longer than necessary. I understand that the importance of the job of Superior Court judge requires us to give due diligence to the study of the appointee's character and fitness. I am also confident that after its review, the Legislature will find it appropriate for Ms. Gutierrez to take the Superior Court bench.

As the third branch of government, responsible for the delivery of justice in an efficient and effective manner, its vital that the Judiciary of Guam receive the full complement of judicial officers that it has determined it requires to fulfill its obligations. As such, I will soon be

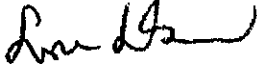


To: Speaker Tina Rose Muña-Barnes  
Fr: Governor of Guam  
Date: February 21, 2020  
Re: Judicial Appointment Request

---

forwarding an appointment to fill the additional judge position that was first certified in 2016 and continues to be a need today.

*Senseremente,*



**LOURDES A. LEON GUERRERO**  
*Maga'hågan Guåhan*  
Governor of Guam

cc via email: *Sigundo Maga'låhen Guåhan*  
Senator Therese M. Terlaje  
Chief Justice F. Philip Carbullido  
Dana Gutierrez, Esq.



**SENATOR THERESE M. TERLAJE**

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' trentai Singko na Libeslaturan Guåhan*  
35th Guam Legislature

February 27, 2020

Transmitted via Electronic Mail:

[governor@guam.gov](mailto:governor@guam.gov)

The Honorable Lourdes A. Leon Guerrero  
*Maga'Håga*  
Office of the Governor of Guam  
513 West marine Corps Drive  
Ricardo J. Bordallo Complex  
Hagåtña, Guam 96910

**SUBJECT: February 21, 2020 Letter concerning Judicial Appointment of Dana A. Gutierrez**

*Hafa Adai* Honorable Governor Leon Guerrero:

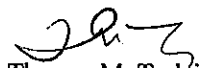
I am in receipt of your letter to Speaker Tina Rose Muña Barnes dated February 21, 2020, relative to the status of the judicial appointment of Dana A. Gutierrez, to the position of Judge of the Superior Court of Guam.

Please be assured that the Committee on Justice is concerned for the efficient and effective delivery of justice within the Judiciary of Guam and is working diligently to properly evaluate the judicial nominee in accordance with Guam Law and the 35th Guam Legislature Standing Rules.

A thorough review of the judicial nominee's background and qualifications is anticipated to conclude as early as next month. This process is necessary to meet the needs of the Judiciary and ultimately ensure the confidence of the people of Guam in our justice system.

Please do not hesitate to contact my office with any further questions or concerns on this matter.

*Si Yu'os Ma'åse'*



Therese M. Terlaje

cc via email: *Sigundo Maga'låhen Guåhan*  
Chief Justice F. Philip Carbuilido  
Speaker Tina Rose Muña Barnes  
Dana Gutierrez, Esq.

---

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

## FIRST NOTICE of Public Hearing -Wednesday, May 20, 2020 at 1:00 p.m.

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, May 12, 2020 at 8:47 PM

To: Speaker's Office <speaker@guamlegislature.org>, Vice Speaker Telena Cruz Nelson <senatorcnelson@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, Senator Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Clynt Ridgell <sen.cridgell@teleguam.net>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Senator Sabina Perez <office@senatorperez.org>, Senator Wil Castro <wilcastro671@gmail.com>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telo Taitague <senatortelot@gmail.com>, Senator James Moylan <senatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>  
 Cc: phnotice@guamlegislature.org, Guam MIS <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>  
 Bcc: Tom Unsioq <sgtarms@guamlegislature.org>, "bcc: Desk Editor" <deskeditor@postguam.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairikl <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, akaur@gannett.com, dcrisost@guam.gannett.com, lfe@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, publisher@glimpsesofguam.com, bryan@mvariety.com, emmanuel@mvariety.com, junhan@mvariety.com, guam@pstripes.osd.mil, carlsonc@pstripes.osd.mil, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbguam.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbguam.com>, Kevin Kerrigan <kevin@spbguam.com>, jolene@spbguam.com, Mai Habib <mai.habib@spbguam.com>, raygibsonshow@gmail.com, manasilva626@yahoo.com, KISH <kstokish@gmail.com>, KPRG <admin.kprg@gmail.com>, KPRG Guam <pdkprg@gmail.com>, Manuel Cruz <cruzma812@gmail.com>, Troy Torres <troy@kanditnews.com>, Marla Louella Losinio <louella.losinio@gmail.com>, Andrea Pellacani <andrea@grassrootsguam.com>, Guam Progress <guamprogress@yahoo.com>, Kelly Park <kcn.kelly@gmail.com>, michael ko <gktv23@hotmail.com>,

**MEMORANDUM**

**To:** All Senators, Stakeholders and Media

**From:** Senator Therese M. Terlaje, Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice

**Date:** May 12, 2020

**Subject:** **NOTICE of Public Hearing - Wednesday, May 20, 2020 at 1:00 p.m.**

***Håfa Adai!*** The Committee on Justice will convene a confirmation hearing on **Wednesday, May 20, 2020 beginning at 1:00 p.m.** on the appointment of:

**Dana A. Gutierrez to the position of Judge, Superior Court of Guam.**

We look forward to your participation. Due to Public Health Emergency restrictions, the hearing will be conducted virtually by remote broadcast only.

1. Written testimony may be submitted via email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or via hand delivery or mail to the Office of Senator Therese M. Terlaje, Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910 no later than 5pm on May 20.
2. Individuals who wish to provide live or pre-recorded oral/virtual testimony (maximum of 5 minutes) must register with the committee no later than 1pm on May 19, 2020, via email at [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) with their full name, contact number and email address and must comply with legislative rules for this format.
3. In compliance with the ADA, individuals requiring special accommodations or services should contact us at (671) 472-3586 or by email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com).

All testimony will be included in the Committee Report on the nomination and published on the [guamlegislature.org](http://guamlegislature.org) website. You can watch the hearing on TV Channel 21GTA or Channel 117/60.4 Docomo; or via [http://www.guamlegislature.com/live\\_feed.htm](http://www.guamlegislature.com/live_feed.htm). A recording of the hearing will be available on YouTube at Guam Legislature Media after the hearing.

***Si Yu'os Ma'åse'!***

—  
Office of Senator Therese M. Terlaje  
Committee on Health, Tourism, Historic Preservation, Land and Justice  
I Mina'trental Singko na Liheslaturan Guåhan  
35th Guam Legislature  
Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910  
Mailing address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910  
T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)  
website: [www.senatorterlaje.com](http://www.senatorterlaje.com)

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5/25/2020

Gmail - FIRST NOTICE of Public Hearing -Wednesday, May 20, 2020 at 1:00 p.m.

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 **First Notice of Public Hearing\_May 20, 2020\_TMT.pdf**  
353K



## SENATOR THERESE M. TERLAJE

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina' trentai Singko na Liheslaturan Guåhan*

35<sup>th</sup> Guam Legislature

May 12, 2020

### MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice

Subject: **NOTICE of Public Hearing** - Wednesday, May 20, 2020 beginning at 1:00 p.m.

*Håfa Adai!*

Please be advised that the Committee on Health, Tourism, Historic Preservation, Land and Justice will convene a public hearing on **Wednesday, May 20, 2020 beginning at 1:00 p.m. tentatively in I Liheslaturan Guåhan's Public Hearing Room** (Guam Congress Building, Hagåtña), on the following agenda item:

- Executive Appointment of **Dana A. Gutierrez** to the position of **Judge of the Superior Court of Guam**, to fill the vacancy left by Judge Michael J. Bordallo.

**Please Note:** The public hearing is contingent on relaxation of public gathering restrictions or adoption of virtual standard operating procedures by the Legislature's Committee on Rules by May 1, 2020. **An updated notice with information on hearing logistics and procedures will be issued as soon as standard operating procedures are established.**

In an effort to do our due diligence regarding the nomination Dana Gutierrez for the position of Judge in the Superior Court, we are soliciting testimony from the community to be sent via email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com). Testimonies may also be submitted via hand delivery to the Office of Senator Therese M. Terlaje at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam; to the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam.

The Committee will continue to receive testimony on this nomination for ten (10) working days following the hearing. All testimony received will be included in the public hearing Committee Report. We look forward to your participation! *Si Yu'os Ma'åse'!*

*The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's live feed](#). A recording of the hearing will be available online via [Guam Legislature Media](#) on YouTube after the hearing. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Therese M. Terlaje at (671) 472-3586 or by sending an email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)*

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Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

# Calvo: Oversight officials' silence 'deafening'

By Lannie Walker  
lannie@postguam.com

Former Republican Gov. Eddie Calvo, who served the two terms preceding Democratic Gov. Lou Leon Guerrero's administration, said he is concerned by a lack of oversight of the executive branch during the COVID-19 pandemic.

"Never in my time as a governor or as a senator have I seen such silence from a legislature or a public auditor or an attorney general," he said, adding: "The silence has been deafening."

Leon Guerrero's office didn't see the need to comment on Calvo's statements.

"I stopped listening to Eddie Calvo interviews in 2018," said Carlo Branch, Leon Guerrero's policy director.

The former governor was also interviewed Tuesday on KUAM and K-57.

Calvo said while a Democratic majority in the Legislature could potentially mean a "harmony of interests" with the executive branch, there is potential for a downside.

"Sometimes the harmony of the

parties is not in harmony with the public's interests, or it may conflict with the public's interests," he said.

He said the Republican minority needs to be more involved in the process of dealing with the COVID-19 crisis.

"In a pandemic or an attack against Guam, whether it is natural or man-made, (you're) supposed to throw away the partisanship. I am very concerned about the sound of silence because it appears all of the major branches of government are controlled by one party," Calvo said.

The former governor made a point to stress that he is an "armchair quarterback" who does not have intimate knowledge of decisions made by the current administration. He said he began to have concerns when COVID-19 was at its early stage in February and as the virus spread to South Korea, which is one of the main sources of tourists for Guam.

"Obviously, if it was becoming a health emergency in South Korea, and there are about 60,000 to 65,000 coming each month into Guam, you

can put two and two together," he said of tourist arrivals.

Calvo said the current administration's efforts appear reactionary.

A plan of action to deal with the pandemic seems to have "evolved on a daily basis," said Calvo.

"Sometimes even in one day - depending on who you talk to - there are even contradictory messages coming out. I am very concerned there seems to be some discombobulation and a lack of coordination," he said.

How the plan is disseminated to the public is also important, said Calvo, who mentioned, as an example, when reporters were muted when trying to ask questions during a press conference.

"I have never seen that occur - not in a democracy. You do not censor, you do not mute reporters," he said, adding, "If the issue is on COVID-19 relief and someone asks a question on economic relief, that question is valid. It's up to the media, and the governor and her people to ensure they are free for access for all information to the public."

Calvo was not entirely critical. **Not everything is criticism from this quarterback**

He said some edicts by the executive branch to stem the spread of the virus that causes COVID-19 do seem to be working.

"Maybe we should have shut things down a little more quickly, but I think the people of Guam, based on what was coming from leadership, did self-contain ourselves," he said.

Yet, aid for displaced workers and the homeless should have been a higher priority, said Calvo.

"There are many folks that have been out of a job for two months. We should have focused on that from the very beginning. ... They did too little a little too late," he said.

Calvo said he is praying for Leon Guerrero and stressed the need for collaboration as Guam moves forward.

"I am hopeful we can work together and get through this crisis. We have gotten through a lot of crises before in the past ... so I am confident we can," Calvo said.

## Adelup explains decrease in COVID-19 briefings

By Nick Delgado  
nick@postguam.com

Gov. Lou Leon Guerrero has held two COVID-19 daily briefings so far this month.

The press conferences, which allows the media to ask questions, and the community to watch and hear the responses as they are given, have not been held this week.

"There will be no press conference today. Thank you," governor's communications director Janela Carrera stated to the media on Monday and Tuesday via the COVID-19 press conference WhatsApp group chat.

Leon Guerrero did provide a briefing on May 5 and 8. During the last briefing, she said the media events show her administration is transparent.

Governor's policy director Carlo Branch on Tuesday explained why they have since cut back on the daily briefings.

"In any disaster, when you shift from crisis response to crisis recovery, ... you see a shift in operational tempo. So, we will continue to have press conferences regularly. But, this week, I think you can notice we have issued several guidances on several different programs including (frequently asked questions) on the (Emergency Impact Payment)," Branch said, adding that they've also released "FAQs on the Prugrãman Salãppe' Ayudon l Taotao, as well as trying to help people get through the reopening and the new normal."

Branch added, "Press conferences will occur on a regularly scheduled basis and we will likely publish those dates soon. This

week has been focused on getting the thousands of checks in the mail, making sure people understood the differences between the local and federal programs and helping ensure everybody got as much access to as much help as possible."

The governor did provide a brief message on her Facebook page on Monday. She urged Guamanians to continue practicing social distancing. She also provided updates on federal help for residents.

As of Tuesday afternoon, there's been no word on whether the governor will hold a press briefing this week.

"I don't think it is strange to have an administration take a week to focus on making sure we implement the programs we have spent so much time talking about," Branch said.

## Police searching for culprits in GCC break-in

Guam Community College employees had been prepping the campus bookstore in anticipation of opening it for students on Tuesday.


Unfortunately, when employees arrived that morning around 8 a.m., they opened the bookstore to find the cashier area in disarray, according to Guam Police Department spokesman Sgt. Paul Tapao. Additionally, the culprits damaged the store's shelving and cabinets. The entire store was covered in solution from the building's extinguishers.

GCC spokesman John Dela Rosa said there's no cost estimate of the damage at this time, adding the overall damage wasn't extensive.

"It is still an unfortunate event and we are hoping the community can help identify the vandals," he stated.

The Guam Police Department is asking the community for help in identifying the culprits responsible for the break-in. Anyone with information is asked to call GPD dispatchers at 472-8911. (Daily Post Staff)

**SENATOR THERESA M. TERLAJE**  
I Nina'vrentai Singko na Lihoslaturan Guahan  
35<sup>th</sup> Guam Legislature  
VIRTUAL CONFIRMATION HEARING • 1:00 PM • WEDNESDAY, MAY 20, 2020




**Committee On Health, Tourism, Historic Preservation, Land and Justice**


**AGENDA**

**Executive Appointment of**  
**DANA A. GUTIERREZ**  
to serve as a Judge of the Superior Court of Guam

If you would like to participate in this virtual hearing, submit written testimony or if you require special accommodations, please contact the office of Senator Theresa M. Terlaje via email at [senatorterlaje@guam.net](mailto:senatorterlaje@guam.net) or 472-3586 no later than **May 18, 2020** for further guidance. The hearing will broadcast on GTA Ch. 21, Docomo Channel 117/60.4 and streamed live at <http://www.guam.net.gu/terlaje> and on the Guam Legislatures YouTube Channel at <https://www.youtube.com/channel/UCWd-311Ee-k2H16z203g>. This ad is paid for with government funds.



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**DIVISION OF SPECIAL EDUCATION**  
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501 Marine Avenue  
Harrigada, Guam 96913  
Telephone: (671) 300-1322 or 2295  
Email: [special@gdoe.net](mailto:special@gdoe.net)



**DOE-Division of Special Education**  
**Guam Advisory Panel for Students with Disabilities (GAPSD)**  
**General Meeting**  
**May 19, Tuesday, at 10:00 pm to 11:30 am**  
**Teleconference- via Zoom Conferencing**

Individuals requiring information or special accommodations please submit via email Special Education at [sped@gdoe.net](mailto:sped@gdoe.net). Request for special accommodations at least 72 hours prior to meeting.

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Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**SECOND NOTICE of Public Hearing- Wednesday, May 20, 2020 at 1:00 p.m.**

1 message

**Senator Therese Terlaje** <senatorterlajeguam@gmail.com>

Mon, May 18, 2020 at 9:06 AM

To: Speaker's Office <speaker@guamlegislature.org>, Vice Speaker Telen Cruz Nelson <senatorcnelson@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, Senator Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Clynt Ridgell <sen.cridgell@teleguam.net>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Senator Sabina Perez <office@senatorperez.org>, Senator Wil Castro <wilcastro671@gmail.com>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telo Taitague <senortelot@gmail.com>, Senator James Moylan <senatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>  
Cc: phnotice@guamlegislature.org, Guam MIS <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>  
Bcc: Tom Unslog <sgtarms@guamlegislature.org>, "bcc: Desk Editor" <deskeditor@postguam.com>, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, Oyaol Ngirairiki <managingeditor@postguam.com>, haidee@postguam.com, John Oconnor <john@postguam.com>, reporters@postguam.com, rlimtiaco@guampdn.com, Rindraty Limtiaco <slimtiaco@guampdn.com>, Guam PDN <news@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, akaur@gannett.com, dcrisost@guam.gannett.com, life@guampdn.com, dmgeorge@guampdn.com, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, Pacific Island Times <pacificislandtimes@gmail.com>, publisher@glimpsesofguam.com, bryan@mvariety.com, emmanuel@mvariety.com, junhan@mvariety.com, guam@pstripes.osd.mil, carlsonc@pstripes.osd.mil, mabuhaynews@yahoo.com, editor@saipantribune.com, Bruce Hill <pacificjournalist@gmail.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <sabrina@kuam.com>, Chris Malafunkshun Barnett <chris@kuam.com>, Nestor Licanto <nestor@kuam.com>, reporters@kuam.com, K57 <news@k57.com>, Patti Rodriguez <parroyo@spbguam.com>, pattiontheradio@yahoo.com, Sorensen Pacific Broadcasting <news@spbguam.com>, Kevin Kerrigan <kevin@spbguam.com>, jolene@spbguam.com, Mai Habib <mai.habib@spbguam.com>, raygibsonshow@gmail.com, manasiiva626@yahoo.com, KISH <kstokish@gmail.com>, KPRG <admin.kprg@gmail.com>, KPRG Guam <pdkprg@gmail.com>, Manuel Cruz <cruzma812@gmail.com>, Troy Torres <troy@kanditnews.com>, Maria Louella Losinio <louella.losinio@gmail.com>, Andrea Pellacani <andrea@grassrootsguam.com>, Guam Progress <guamprogress@yahoo.com>, Kelly Park <kcn.kelly@gmail.com>, michael ko <gktv23@hotmail.com>, [REDACTED]





**MEMORANDUM**

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson  
Committee on Health, Tourism, Historic Preservation, Land, and Justice

Date: May 18, 2020

Subject: **NOTICE of Public Hearing** - Wednesday, May 20, 2020 at 1:00 p.m.

***Håfa Adai!*** The Committee on Justice will convene a confirmation hearing on **Wednesday, May 20, 2020 beginning at 1:00 p.m.** on the appointment of:

**Dana A. Gutierrez to the position of Judge, Superior Court of Guam.**

We look forward to your participation. Due to Public Health Emergency restrictions, the hearing will be conducted virtually by remote broadcast only.

1. Written testimony may be submitted via email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or via hand delivery or mail to the Office of Senator Therese M. Terlaje, Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910 no later than 5 pm on May 20.
2. Individuals who wish to provide live or pre-recorded oral/virtual testimony (maximum of 5 minutes) must register with the committee no later than 1 pm on May 19, 2020, via email at [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) with their full name, contact number, and email address and must comply with legislative rules for this format.
3. In compliance with the ADA, individuals requiring special accommodations or services should contact us at (671) 472-3586 or by email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com).

All testimony will be included in the Committee Report on the nomination and published on the [guamlegislature.org](http://guamlegislature.org) website. You can watch the hearing on ***TV Channel 21GTA or Channel 117/60.4 Docomo***; or via [http://www.guamlegislature.com/live\\_feed.htm](http://www.guamlegislature.com/live_feed.htm). A recording of the hearing will be available on YouTube at Guam Legislature Media after the hearing. ***Si Yu'os Ma'åse'!***

--

**Office of Senator Therese M. Terlaje**  
 Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina'trentai Singko na Liheslaturan Guåhan*  
 35th Guam Legislature  
 Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910  
 Mailing address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910  
 T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)  
 website: [www.senatorterlaje.com](http://www.senatorterlaje.com)

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 **Second Notice of Public Hearing\_May 20, 2020\_TMT.pdf**  
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## SENATOR THERESE M. TERLAJE

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' trentai Singko na Libeslaturan Guåhan*  
35<sup>th</sup> Guam Legislature

### MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice

Date: May 18, 2020

Subject: **NOTICE of Public Hearing** - Wednesday, May 20, 2020 at 1:00 p.m.

*Håfa Adai!* The Committee on Justice will convene a confirmation hearing on **Wednesday, May 20, 2020 beginning at 1:00 p.m.** on the appointment of:

**Dana A. Gutierrez to the position of Judge, Superior Court of Guam.**

We look forward to your participation. Due to Public Health Emergency restrictions, the hearing will be conducted virtually by remote broadcast only.

1. Written testimony may be submitted via email to [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) or via hand delivery or mail to the Office of Senator Therese M. Terlaje, Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910 no later than 5pm on May 20.
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All testimony will be included in the Committee Report on the nomination and published on the [guamlegislature.org](http://www.guamlegislature.org) website. You can watch the hearing on *TV Channel 21GTA or Channel 117/60.4 Docomo*; or via [http://www.guamlegislature.com/live\\_feed.htm](http://www.guamlegislature.com/live_feed.htm). A recording of the hearing will be available on YouTube at [Guam Legislature Media](http://www.guamlegislature.org) after the hearing. *Si Yu'os Ma'åse'!*

---

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Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)

LLOBETS continued from page 1

As the number of cases on Guam started to increase, the couple watched the tragedy unfolding in their beloved home state. Hundreds dying, mass burial sites, overwhelmed hospitals, nurses and doctors contracting the virus.

"It's been really difficult. At first, my friends and colleagues were just telling me nightmare stories and my first thought was I need to go back to New York to help out," Holly Llobet said.

But she changed her mind when she realized her leaving would mean GMH wouldn't have someone to replace her.

"It's not like New York, where other physicians can just drive over from Connecticut to help out. We don't have any new doctors for relief," she said.

The couple reevaluated and agreed, "Guam needs us more than New York, so we decided to stay."

It was a difficult decision considering they have family and friends in New York, Michigan and Florida.

"Working through COVID, I thought: What if I get COVID and never see my family again? What if my family members have COVID and I can't get back to see them?" The questions and anxiety grew, but those fears quickly subsided as she began working with the GMH team.

"They bent over backward to give us PPE ... to do whatever was needed to take care of us," Holly Llobet said. "It's been an amazing experience, and I wouldn't change it for the world."

To date, Guam has had 154 confirmed COVID-19 cases and five deaths. The reports include 126 individuals who have recovered and been taken out of isolation.

"It sounds small, but it's actually quite significant when you look at the population," Paul Llobet said. "Statistically speaking, that's an equal share of what's happening in other parts of the world."



**NEW SHOES:** Dr. Holly Llobet shows off a pair of Crocs donated to her by the owner of the Flip Flop Shop when the shop owner found out the doctor's shoes were broken from the constant decontamination in the COVID unit at Guam Memorial Hospital.



**COOKIES BRING CHEER:** Dr. Paul Llobet holds up cookies donated by The Guam Daily Post staff after completing a long shift at Guam Regional Medical City. Llobet said meals and other contributions from the community helped lift the spirits of the medical professionals and helped motivate the health care professionals working the front lines. Photos courtesy of Holly Llobet

Holly Llobet said she feels safer on Guam than she would have if she had gone back to New York.

"They shut this down and got control of it so quickly," she said. "It could have been so much worse."

Paul Llobet agreed and said having had some experience in hospital administration in New York, it's always easy in hindsight to pinpoint mistakes that are made or how something could have been done better, but he said he's been impressed with the efforts that were made on the island.

"The detractors maybe should reconsider the fact that (government officials) did an amazing job and it would be hard for anyone else to say they could do any better," he said. "I'm proud of Guam and proud to have been part of the health care here."

**Community generosity**

The first day the COVID-19 team

at GMH didn't know how to get food or water. Once in the negative-pressure hot zone area, coming out to grab water or get food from the cafeteria isn't as easy as just walking out the door. There's an extensive decontamination process that often takes an hour. The next day, food donated from the community was delivered to the unit, including vegetarian meals for Holly Llobet.

With the constant decontamination, Holly's shoes fell apart, and she couldn't get new ones because, at the time, shoes at Kmart were deemed nonessential.

"I didn't have any extra shoes. The owner of the Flip Flop Shop heard and within a few hours delivered me a pair of Crocs that I can wear in the shower, decon and bleach the shoes and I'm still wearing them every day," she said. "Stuff like this doesn't happen in New York. It's just too big and too crazy but, on this island ... it's like, man, my shoes are falling apart and a couple hours later, I had shoes."

Paul Llobet said the kindness and generosity of the community and the Chamoru culture of being loving, open and accepting have made for an unforgettable experience.

"You don't know how powerful it is when the community all of a sudden show up with coffee or with breakfast or with cookies," he said. "You're wearing this gear. You're tired and you come out and you just want something ... It's amazing how the nonmedical community really kind of stepped it up and motivated us."

The physicians said it was a wonderful feeling to be appreciated for the work that they're doing.

"I don't think I've ever felt that before to this extent. I almost feel like an adopted son of Guam," Paul Llobet said.

HOTELS continued from page 1

rooms. This includes visitors and any member of the federal government or U.S. Armed Forces, including dependents traveling to Guam on official orders.

When asked if a college student, off island for several years attending school, who is returning home but is no longer a resident of Guam, would be required to pay the 14-day quarantine cost, Governor's press secretary Krystal Paco-San Agustin said the

college student "would be considered a resident because of his strong ties to Guam."

Those travelers who obtain a diagnostic specimen test for COVID-19 in the country of origin no more than 72 hours prior to arrival in Guam and present a certified document from a medical provider that attests to the fact the individual is not infected with SARS-CoV-2 and is based on a negative test result from the specimen collected within the last 72 hours, to the health screeners at the airport upon arrival in Guam may be allowed to self-quarantine at home.

The testing facility where the specimen is tested for COVID-19 must be approved by the United States Centers for Disease Control and Prevention or the World Health Organization. The approval of the presented document is at the discretion of the Department of Public Health and Social Services. A valid and DPHSS-accepted COVID-19 test should be a Food and Drug Administration-approved polymerase

chain reaction test with the specimen collected within 72 hours of arrival in Guam, and the laboratory test results presented for review should state a name, date of birth, type of test, date the specimen was collected, date of test results, results of the test and the name of the laboratory that performed the test.

For transiting passengers with layovers of less than 10 hours, the passengers can remain at the airport as long as they do not exhibit COVID-19 symptoms. If the layover is more than 10 hours, passengers will be transported to a government-approved quarantine facility to wait for their outbound flight. Passengers can leave the quarantine facility if the date of their outbound flight is before the end of the 14-day quarantine period.

There was no COVID-19 testing conducted on Sunday. Guam has had a total of 154 confirmed cases and 126 individuals who have been relieved from isolation. (Daily Post Staff)

**SENATOR THERESA M. TERLAJE**  
 I Mina'trentai Singko na Liheslaturan Guåhan  
 35<sup>th</sup> Guam Legislature

**Committee On Health, Tourism, Historic Preservation, Land and Justice**

VIRTUAL CONFIRMATION HEARING • 1:00 PM • WEDNESDAY, MAY 20, 2020

**AGENDA**

**Executive Appointment of**  
**DANA A. GUTIERREZ**

**to serve as a Judge of the Superior Court of Guam**

If you would like to participate in this virtual hearing, submit written testimony or if you require special accommodations, please contact the Office of Senator Theresa M. Terlaje via email at [senatorterlaje@guam.gov](mailto:senatorterlaje@guam.gov) or 472-3596 **no later than May 18, 2020** for further guidance. The hearing will broadcast on GFA Ch. 21, Docomo Channel 11/760.4 and streamed live at <http://www.guamnews.state.guam.gov> and on the Guam Legislatures YouTube Channel at <https://www.youtube.com/channel/UCW3eL1e6g4f5u23ag>. This ad is paid for with government funds.



**SENATOR THERESE M. TERLAJE**

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' trentai Singko na Libeslaturan Guåhan*  
35<sup>th</sup> Guam Legislature

**Confirmation Hearing**

*via Virtual Platform*

**Wednesday, May 20, 2020**

**1:00 p.m.**

**(12:30 p.m. log in)**

**Agenda**

**Executive Appointment**

*Pursuant to I Maga' hågan Guahan's authority under 7 GCA § 3109;*

**Dana A. Gutierrez,**

*To serve as JUDGE, Superior Court of Guam*

\*The hearing will air live on TV Channel 21GTA or Channel 117/60.4 Docomo; or via [http://www.guamlegislature.com/live\\_feed.htm](http://www.guamlegislature.com/live_feed.htm). You can also view the hearing on the Guam Legislature's YouTube Channel. A recording of the hearing will be available on YouTube at [Guam Legislature Media](#) after the hearing.\*

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Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



**I Mina'trentai Singko na Liheslaturan Guåhan**  
**Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

**Date:** Wednesday, May 20, 2020

**Time:** 1:00 PM

**Confirmation Hearing on the appointment of Dana A. Gutierrez to serve as Judge; Superior Court of Guam**

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Joseph Shimizu, Vice President/CFO Ambros Inc.			joeshimizu@ambrosguam.com % Tim Leddy @ tleddy@ambrosguam.com				
2	AnaMaria Gayle, Esq. Altemate Public Defender			anamariag@guamapd.org				
3	Cynthia V. Ecube, Esq.			ccube@ccubelaw.com [REDACTED]@yahoo.com				
4	Ayano Ichida, Esq. General Counsel, WDI International Inc.			aichida@wdiusa.com				
5	Gloria Castro, Esq. Senior Assistant Attorney General, California			[REDACTED]@mail.com				
6	Rodney J. Jacob, Esq. Calvo Fisher & Jacob LLP			riacob@calvofisher.com				
7	Michael A. Pangelinan, Esq. Calvo Fisher & Jacob LLP			mpangelinan@calvofisher.com				
8	Lorraine Okada, Okada Managing Consulting Services			managingconsultingservices@gmail.com				
9	Georgette Bello Concepcion, Esq Brooks Concepcion Law, P.C.			gbc@guamlaw.net Clare@guamlaw.net				
10	Stephen Stettenbenz, American Job Center Coordinator, Guam Dept. of Labor			stephen.stettenbenz@dol.guam.gov				



**I Mina'trentai Singko na Liheslaturan Guåhan**  
**Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

**Date:** Wednesday, May 20, 2020

**Time:** 1:00 PM

**Confirmation Hearing on the appointment of Dana A. Gutierrez to serve as Judge; Superior Court of Guam**

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Cathleen Moore-Lin, Executive Director, Research Corporation of UOG			cmoore@triton.uog.edu				
2	Charlotte Huntsman, President, SHRM Guam Chapter			charhuntsman@gmail.com charlotte.huntsman@gmc.gu				
3	Melanie Mendiola, Administrator, Guam Economic Development Authority			mei.mendiola@investguam.com				
4	Vince C. Camacho, Esq. Camacho Calvo Law Group			VCamacho@icclawgroup.com				
5	Tricee Lintiao			██████████@gmail.com				
6	Andrew Gayle, Jr., Chief Operating Officer, GTA			██████████@gta.net				
7	Joann Waki Muña, SHRM-SCP, SHPR			██████████@gmail.com				
8	Joseph R. Alcantara, Esq.			██████████@ttalaw.net				
9	Stephen P. Hattori, Esq. Director, Guam Public Defender Service Corp			██████████@gmail.com				
10	Joan Angoco							



# JUDICIARY OF GUAM

Administrative Office of the Courts  
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910  
Tel: (671) 475-3544 • Fax: (671) 477-3184



HON. F. PHILIP CARBULLIDO  
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA III  
PRESIDING JUDGE  
KRISTINA L. BAIRD  
ADMINISTRATOR OF THE COURTS

May 18, 2020

The Honorable Therese M. Terlaje  
35<sup>th</sup> Guam Legislature  
Chairperson, Committee on Health, Tourism, Historic Preservation, Land and Justice  
173 Aspinall Avenue Suite 207  
Ada Plaza Center  
Hagåtña, Guam 96910

**Subject: Invitation to Virtual Confirmation Hearing for Executive Appointment of Dana A. Gutierrez, to serve as a Judge of the Superior Court of Guam**

*Håfa Adai*, Senator Terlaje,

Thank you for the invitation to participate in the Virtual Confirmation Hearing for the Appointment of Attorney Dana A. Gutierrez to serve as a Superior Court Judge. I submit this written testimony in my capacity as the Chief Justice of Guam and head of the Judiciary and Judicial Council of Guam. First, I would like to thank you and the Committee for acting swiftly to fill the Superior Court vacancy and holding a virtual confirmation hearing, considering our current pandemic situation. As the Chief Justice, I must ensure that our branch of government continues to provide efficient and effective administration of justice. In February 2020, our Judicial Council members, recognizing the immediate need to fill the vacancy, authorized the certification of the vacancy.

Each year, thousands of cases are filed in the Superior Court of Guam, and our judges and referees preside over a variety of cases. While many cases are matters of general jurisdiction, there are also hundreds of cases requiring therapeutic jurisprudence. Our judges lead the efforts and work of our therapeutic courts, and although not all cases are the same, significant time and attention is spent resolving every case brought before the trial courts. Today, courts across the country, including our Judiciary are operating under uniquely challenging circumstances. Despite these challenging circumstances, we have had to balance the public health and safety measures with administering justice and providing access to justice for all persons. Since the start of the COVID-19 pandemic in mid-March, the Superior Court judges have had numerous remote hearings by teleconference and

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# JUDICIARY OF GUAM

Administrative Office of the Courts  
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**HON. F. PHILIP CARBULLIDO**  
CHIEF JUSTICE

**HON. ALBERTO C. LAMORENA III**  
PRESIDING JUDGE  
**KRISTINA L. BAIRD**  
ADMINISTRATOR OF THE COURTS

Letter to Senator Terlaje re: Virtual Confirmation Hearing  
May 18, 2020  
Page 2

videoconference. Judges continue to review court filings submitted electronically and have issued decisions in cases which they are assigned.

The wheels of justice must continue to churn, and as the Chief Justice, I am committed to ensuring that our branch of government provides fair justice for all persons. In the coming weeks and months, our court will gradually expand its services before resuming normal court operations. For now, our "new normal" means increasing the number of remote hearings by Zoom and teleconference, encouraging patrons to utilize the online services already available, and working closely with our stakeholders to adjust to our new ways of operating because we must also ensure the safety of our court staff and the public. As we gradually resume operations, there will be a delay in resolving matters brought before the trial courts. Judges will have the daunting challenge of addressing the delays and prioritizing the cases before them. There will also be an increasing demand for the services our trial courts provide, most importantly, how to safely conduct a jury trial in criminal matters.

Now, more than ever, maintaining and continuing court operations, requires a full complement of Superior Court judges to fulfill the needs and statutory obligations of matters brought before the Superior Court. We must continue to provide access to justice, even during these difficult times for our island and our people. I look forward to the completion of the confirmation process and the filling of a much-needed judicial vacancy in the Superior Court of Guam.

*Senseramente,*

F. Philip Carbullido  
Chief Justice

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# Supreme Court of Guam

Suite 300 Guam Judicial Center  
120 West O'Brien Drive, Hagåtña, Guam 96910-5174  
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[www.guamcourts.com](http://www.guamcourts.com)



HON. ROBERT J. TORRES  
JUSTICE

May 19, 2020

Honorable Therese M. Terlaje  
Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina'trentai Singko na Liheslaturan Guåhan*  
173 Aspinall Avenue,  
Suite 207 Ada Plaza Center  
Hagåtña, Guam 96910  
[senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

Dear Senator Terlaje:

The Model Code permits judges to participate in the process of judicial selection by cooperating with appointing authorities and screening committees and by responding to official inquiries concerning the qualifications of a person being considered for a judgeship. In an email to me, dated May 12, 2020, your office requested participation in the Committee on Justice's public hearing on the appointment of Dana A. Gutierrez to the position of Judge, Superior Court of Guam. Based on that request, I submit this written testimony.

When I was Chief Justice of Guam in 2016, I formed a committee for determining the need for an additional judge composed largely of private practitioners and the Clerk of the Superior Court. The Committee undertook its analysis over several weeks to include polling of Superior Court Judges, magistrates, hearing officers, and Guam Bar Association members. The committee's final recommendation was there existed a need for an additional Superior Court Judge.

The Judicial Council, in a duly adopted resolution, confirmed that an additional judge of the Superior Court of Guam is required for the proper dispatch of the business of the Superior Court of Guam. Based on that resolution, and in accordance with 7 GCA § 4101(b), as the then Chief Justice I informed I Maga'lahi that an additional judge is necessary for the Superior Court.

The Judicial Council of Guam, in a February 2019 resolution after *I Maga'håga Guåhan* took office and *I Mina'trentai Singko na Liheslaturan Guåhan* were sworn in, affirmed the continuing and immediate need for an eighth judge for the Superior Court of Guam. The Judicial Council resolved this need to ensure that the Judiciary of Guam fulfill its mission of delivering effective and efficient justice to the people of Guam.

Since that resolution, Judge Michael Bordallo resigned from his position as a Superior Court judge, leaving the Superior Court with only six full-time judges. The need to fill an existing vacancy on

Hon. Therese M. Terlaje  
Page 2  
May 19, 2020

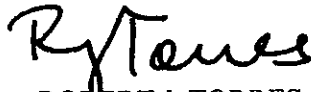
the Superior Court is even more pressing than in 2016, and I request the Committee act expeditiously.

Concerning the nominee's qualifications, I have known Dana personally for more than 15 years and have worked with her closely on variety of matters. She is a lifetime member of our Law Week(s) Committee and served as the Director of Policy, Planning and Community Relations while I was Chief Justice from 2015 – 2016.

During her employment with the Judiciary, Dana was disciplined and the work she generated was outstanding. She is intelligent and fair. Her varied interests and good sense of humor serve her well, and she is a valuable asset to any organization. We were sorry to see her leave the Judiciary and return to private practice.

If you have any questions or wish to speak with me further about the nominee, or her qualifications, please do not hesitate to contact me.

Warmest regards,



ROBERT J. TORRES  
Justice  
Supreme Court of Guam



# JUDICIARY OF GUAM

Administrative Office of the Courts  
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910  
Tel: (671) 475-3544 • Fax: (671) 477-3184



HON. KATHERINE A. MARAMAN  
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA III  
PRESIDING JUDGE  
JOHN Q. LIZAMA  
ADMINISTRATOR OF THE COURTS

FOR IMMEDIATE RELEASE  
November 19, 2019

Contact: Shawn Gumataotao  
671-300-9282

## **CHIEF JUSTICE MAKES STATEMENT ON JUDICIAL APPOINTMENT** *Governor Lourdes A. Leon Guerrero appoints Attorney to serve as Eighth Judge of the Superior Court of Guam*

Chief Justice Katherine A. Maraman issued the following statement regarding the appointment of Attorney Dana A. Gutierrez to serve as a Judge in the Superior Court of Guam:

“There is no greater testament of her legal acumen than a vote of confidence from fellow attorneys. Like her peers in the legal community, I have full confidence in Dana’s ability to serve our people as a Superior Court Judge. Dana is intelligent, conscientious in her work ethic and has an impressive array of legal experience. Additionally, her service as Director of Policy Planning and Community Relations here at the Judiciary was significant. I am certain that Dana’s record as an attorney and her contributions to this community will serve our people well in her capacity as a Superior Court Judge.”

-30-



May 14, 2020

**Honorable Therese M. Terlaje**

Chairperson, Committee on Health, Tourism, Historic Preservation, Land and Justice  
35<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

**Subject: Confirmation of Dana A. Gutierrez, Judge, Superior Court of Guam**

Dear Madam Chairperson:

I respectfully submit this written testimony supporting Attorney Dana Gutierrez as a Judge in the Superior Court of Guam. I personally have known Attorney Gutierrez for decades and attest that she not only qualified to sit as a jurist in our Judiciary, but possesses the all important judicial temperament to justly adjudicate the criminal and civil cases assigned to her.

Attorney Gutierrez, apart from being highly competent in legal principles, has the experience both in the private practice and in government service to help her render "*legally correct decisions*." However, I believe that one of the strongest attributes I've observed in Dana is compassion and equity. To be judged by another based solely upon the law is not the only basis in which the Judiciary applies "justice." Dana has empathy, is Chamorro, has a keen sense of goodness and a strong moral "compass" to ensure that her decisions would not only be legally justified, but take into account equitable factors to make a "*good*" decision. Much too often we in the legal community demand our "*pound of flesh*," without regards to how it could unjustly hurt another.

To me, Dana will provide what our other honored Judges exhibit in their respective Courtrooms every day. She will add her Chamorro heritage and personal life experiences growing up here to ensure our community remains safe, and our People receive the just decisions that our Judiciary is required to provide.

Cordially,

**Douglas B. Moylan**

Suite 201 Skinner Plaza Building • 138 West Seaton Boulevard • Hagåtña  
Mailing Address: Law Offices of Douglas B. Moylan • P.O. Box 7822 • Tamuning, Guam 96931 • USA  
(671) 475-9292 • [REDACTED] (cellular) • (671) 475-9293 (fax) • [REDACTED]

1<sup>st</sup> Elected Attorney General of Guam • 3 term Legislative Counsel



**MUNICIPALITY OF AGANA HEIGHTS**  
**Mayor's Council of Guam**

*Konschelon Ma'ahot Gudhan*

**Paul M. McDonald**

*Mayor*

May 19, 2020

**HONORABLE THERESE TERLAJE**  
Senator/Legislative Justice Committee Chairperson  
Office of Senator Therese M. Terlaje  
163 Chalan Santo Papa  
Hagåtña, Guam 96910  
[senatorterlaje@guam.gmail.com](mailto:senatorterlaje@guam.gmail.com)

**Re: Letter of Support of Confirmation of Dana Gutierrez as Judge of Superior Court of Guam**

*Hafa Adai!*

It is with great pride and pleasure that I support the confirmation of Dana Gutierrez as Judge for the Superior Court of Guam.

Dana's record of accomplishments as a lawyer is without blemish. I have known her to continuously practice with integrity and the highest standards of legal acumen. Dana has always practiced with expertise, fairness, honesty and professionalism.

Dana comes from a wonderful and supportive family who are all respected contributing members of our village. As a member of the Agana Heights community, Dana has always been a good-standing contributing member of our village, she has always demonstrated civic and professional responsibility; not only does she contribute her time, her efforts, and any means that she and her family can to help the community, but she also contributes in countless ways to our island and to society.

I believe that it will be in Guam's best interest for Dana to become a Judge for the Superior Court of Guam, because she upholds the qualities of a good judge: Judicial Temperament; Intelligence; Ethics; Courage and Integrity; Experience and Education; Suitability to Workload; Ability to Communicate; Continuing Legal Education; Civic and Professional Responsibility; and Character.

I am confident that Dana will uphold the law and will serve the people of Guam fairly and impartially and will make sound decisions as a judge.

It is my hope that the 35<sup>th</sup> Guam Legislature will confirm Dana Gutierrez as a Judge for the Superior Court of Guam.

*Si Yu'us Ma'ase!*

Sincerely,

  
PAUL M. MCDONALD  
Mayor



OFFICE OF THE MAYOR  
P.O. Box 786, Hagåtña, Guam 96932 • Office: (671) 472-8285 / 6 / 6393 • Fax: (671) 472-6124  
Email: [mayormcdonald@hotmail.com](mailto:mayormcdonald@hotmail.com)

**Stephen P. Hattori, Esq.**

May 18, 2020

Senator Therese M. Terlaje  
Chairperson  
Committee on Health, Tourism, Historic  
Preservation, Land and Justice  
*I Mina' trentai Singko Na Liheslaturan Guåhan*  
Hagåtña, Guam 96910

Dear Chairperson Therese M. Terlaje and Committee Members:

*Buenas yan Hafa Adai.* Thank you for the opportunity to SUPPORT and encourage the confirmation of Dana A. Gutierrez for the position of Judge, Superior Court of Guam.

It is nice to know that, despite this Pandemic that has resulted in an island-wide shut down that the wheels of the Legislature are still rolling to ensure that the wheels of Justice can keep rolling as well. I pray that yourself, and the rest of the island remain safe during these difficult times. With the vacancy created by Judge Bordallo moving over to the Federal Court, I urge this committee to expeditiously confirm Dana for such vacancy.

It is a privilege to support Dana. I have known her for almost my entire legal career. She is well respected among her peers and has developed into an Employment expert that the Society for Human Resource Management and other Employment lawyers will miss. Over the years, I have picked her brain over such issues and other personnel matters that yielded sound advice for me to consider. Dana has always been willing to lend her thoughts not just in employment law but the protection of the 6<sup>th</sup> Amendment. She even provided me with input when I applied for my current position. I also worked with her on the Ethics Committee of the Guam Bar and I can recall that she was not quick to judge, kept an open mind and was decisive when necessary.

When I think of great judges that Guam has been blessed with, I think of the qualities that made them great. Judge Bordallo and Judge Manibusan, were both humble men, full of commonsense. They also had intestinal fortitude. Both tended to do what was right and fair, not what was popular. I speak of Judge Bordallo and Judge Manibusan because they are no longer Judges with the Court I regularly appear before. There are other sitting trial judges that I can also cite as examples. Notwithstanding the fact that she graduated from USC Law School, Dana is similarly well suited to become a Judge. She will make an excellent public servant. She is humble and has common sense, she thinks before she acts, and has the intelligence and confidence needed to be a fair and impartial Judge. It is without reservation that I support and urge her speedy confirmation as the Seventh sitting Judge.

*Senseramente,*



STEPHEN P. HATTORI, Esq.

Danielle T. Rosete



Transmitted via Electronic Mail: senatorterlajeguam@gmail.com

May 20, 2020

The Honorable Therese M. Terlaje  
35<sup>th</sup> Guam Legislature  
Chairperson, Committee on Health, Tourism, Historic Preservation, Land and Justice  
173 Aspinall Avenue Suite 207  
Ada Plaza Center  
Hagåtña, Guam 96910

**Subject: Confirmation Hearing for the Executive Appointment of Dana A. Gutierrez, to serve as a Judge of the Superior Court of Guam**

*Håfa Adai*, Senator Terlaje,

I submit this written testimony in support of Attorney Dana A. Gutierrez's nomination as a Superior Court Judge. I have known Attorney Gutierrez personally and professionally for almost 15 years. Dana is smart, hard working, and listens and welcomes feedback when interacting with others. I have had the honor to work with her as a Law Week committee member. The Law Week committee, or as some call it, a lifelong committee, conducts outreach each year to engage our community in understanding the Rule of Law and the legal process. In addition to her legal practice work, Dana contributes countless hours as a committee member in performing community outreach. The Law Week committee has been recognized numerous times by the American Bar Association for winning the Outstanding Law Day Activity Award for Best Public Program.

Dana is a dear friend and colleague. She listens and provides sound advice. I always appreciated how thorough she was with her work. She is extremely passionate and committed to the legal system and can make sound and reasonable decisions. She excels in what she does and always maintains professionalism and has great integrity.

Dana is also a family person. She enjoys being with family and friends and balances her work and family life. As a dear and close friend, Dana has lifted my spirits when I was feeling down, made me laugh when we celebrated good times, but most importantly, she was always kind and respectful. As a judge, I know that Dana will use these same traits and skills that she has learned throughout her life and, also through her upbringing. Her work ethic, integrity, professionalism, and her ability to make reasonable and sound decisions make her a suitable person to be a judge.

*senseramente,*

*DRosete*

Danielle T. Rosete



May 17, 2020

Senator Therese M. Terlaje  
35<sup>th</sup> Guam Legislature  
163 Chalan Santo Papa  
Hagåtña, Guam  
via email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

Dear Senator Terlaje and members of the Committee on Justice:

This letter indicates my strong and enthusiastic support for the nomination of Dana A Gutierrez, Esq, for the position of Judge, Superior Court of Guam. Firstly, I will give you a short idea of my background, since I only know some of you, and others perhaps your parents better than you. And then I will give you the reasons and evidence for my support.

My name is Helen Whippy. I am a Gov Guam retiree and proud parent of three graduates from Guam public schools (Sanchez and GWHS) who love Guam as much as I do. It is our home. My home is in Chalan Pago, although I currently reside in Honolulu. I served the University of Guam for many years as a faculty member and administrator, retiring from the Senior Vice Presidency. I am an Emerita Vice President from UOG. I recently also finished my contract and retired from the position of Provost at Chaminade University of Honolulu, where I served for 6 years. I have kept a few things to keep me busy: I serve on the Program Steering Committee for the NIH funded U54 Cancer Grant at UOG and was the founding PI; as an elected Commissioner for the WASC College and University Commission, a regional accrediting body; and as a consultant on higher education issues.

Now, let's talk about Dana A. Gutierrez. I have known her since 2003, 17 years, as a colleague at UOG, a trusted advisor, and a friend. She has the knowledge, experience, and temperament to be an excellent member of the judiciary. Ms. Gutierrez has used her law degree in many areas of practice. In each case, she brings a single-minded focus to her preparation, and an elegant turn of phrase to her reports. She worked as legal counsel at UOG, where I was the Senior Vice President, and many times, Acting President. In that role her knack for telling truth to power, without being obnoxious about it, was a true blessing. As an advisor, she was accurate, clear, and did not presume to make management decisions, although there were cases where the decision was clear. In her role, she kept confidentiality very well and maintained an ethical and humane attitude during some very trying times. As you are aware, personnel issues are the most complex and many-faceted challenges we faced and she was outstanding in her analysis and support during those times.

Ms. Gutierrez was part of a team and worked with the team by contributing her expertise and supporting the other members. As a judge, she will be working as a team, mentoring others, upholding the rules, and, in a very important role for a judge, listening. She listens with her mind and not just with her eyes. This will be important as a good judge keeps her mind engaged. She is knowledgeable of current laws and regulations, but also spends the time to check documents to ensure she has it right.

Ms. Gutierrez has an analytical and thorough mind, working through details without losing sight of the strategic and overall goal, and without losing her sense of humor. She will make a most excellent judge, and she is ready both professionally and personally for the task. She will be fair, she will be honest, and she will be accurate.

I hope that I am able to speak to you and your colleagues on Wednesday, May 20, 2020. If I am not able to do so, please accept this as the strongest possible support for Dana A. Gutierrez's nomination the Superior Court bench. Guam will be better for it.

Sincerely,

Helen J. D. Whippy, PhD

Emerita Vice President, University of Guam  
Emerita Professor of Mathematics, Chaminade University of Honolulu  
Commissioner, WASC College and University Commission  
CEO, Whippy, LLC



May \_\_, 2020

**VIA EMAIL: [senatorterlaieguam@gmail.com](mailto:senatorterlaieguam@gmail.com)**

Honorable Therese M. Terlaje  
**MINA' TRENTAI SINGKO NA LIHESLATURAN GUÅHAN**  
Chairperson, Committee on Health, Tourism,  
Historic Preservation, Land and Justice  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

**RE: Letter in Support of the Appointment of Dana Gutierrez**  
**Judge, Superior Court of Guam**

Håfa Adai Senator Terlaje:

Thank you for the opportunity to provide testimony in favor of the appointment of Dana Gutierrez to serve as a Judge of the Superior Court of Guam.

My name is Joseph Shimizu. My parents are Ambrosio T. and Ruth S.N. Shimizu. My dad was co-founder of Ambros Inc., which was incorporated in 1949 – over 71 years ago. I am currently the Vice President and Chief Financial Officer of the company.

I have known Dana's family for over 40 years as far back as the days of "Joe & Flo's." Dana's dad, Roland Gutierrez, together with his brothers, Franklin and Harry, ran Joe & Flo's as a Mexican restaurant and nightclub featuring many local bands. Roland would bring Dana and her family to the restaurant on Saturdays, and I would see them as I was having lunch. I saw Dana gradually mature into an adult that any dad would be proud to call his daughter.

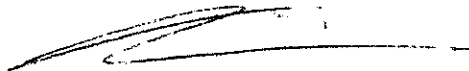
I was able to work with Dana when she worked with the law firm, Mair, Mair, Spade & Thompson – the former corporate attorneys for Ambros. When working with Dana, there is good and bad news. The good news is that Dana is very thorough and will ask for details needed for a case. The bad news is she will not stop until she gets the information she needs. On many occasions she would call me for the information, and I would tell her to check with my brothers, Frank or Paul. Unfortunately, she would have already checked with them and they told her that I am the guru of the information she needs. I would then have to do the research and would thankfully give it to her.

Her drive and her never stop attitude are characteristic of her work habits. She will continue researching until she is satisfied with the answer. As such, Ambros has always been satisfied with Dana's work product. My only regret was when Dana left private practice to work at the Judiciary of Guam as she could no longer do work for the company. But we understood that this was to enhance her skills and knowledge.

I have great expectations that she will excel as a judge of the Superior Court. The bench will be refreshed with new thoughts, new enthusiasm and, above all, a new hardworking judge that will bring justice and equality to the bench.

I ask that all of you give Dana the "thumbs up" and vote yes on her confirmation so that we can all proclaim, "Here comes the judge."

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Shimizu", with a long horizontal flourish extending to the right.

Joseph Shimizu

May 20, 2020

**VIA HAND DELIVER**

Senator Therese M. Terlaje  
Chairperson, Committee on  
Health, Tourism, Historic Preservation,  
Land and Justice

**I MINA'TRENTAI SINGKO**  
**NA LIHESLATURAN GUAHAN**  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

Re: **Testimony in Support of Confirmation of Dana A. Gutierrez as Judge for the Superior Court of Guam.**

Dear Chairperson Terlaje and the Members of the Committee on Health, Tourism, Historic Preservation, Land and Justice:

My name is Cynthia V. Ecube and I am private practitioner licensed to practice law in all local courts of Guam and with the Federal District Court of Guam. I am pleased to provide my written testimony in support of the Confirmation of Dana A. Gutierrez for the position as Judge of the Superior Court of Guam.

I have known Ms. Gutierrez for over fifteen (15) years as a result of our professional association with the practice of law on Guam. Ms. Gutierrez and I worked together on several legal matters representing our respective clients. Based on my interaction and working relationship with her, Ms. Gutierrez possess all the necessary qualities and attributes to serve as Judge for the Superior Court of Guam. Ms. Gutierrez is a highly intelligent, competent and a methodical individual. She possesses strong analytical legal skills, is attentive to the facts of a case, is well prepared when presenting her case, and is able to make sound and practical decisions. She also an open-minded person who listens to both sides of a situation and can be fair and decisive when resolving a matter.

In addition to her exemplary qualities and attributes, Ms. Gutierrez possess strong leadership skills. She has served on various professional boards and committees. In particular, Ms. Gutierrez served as a member at large with the Guam Bar Association ("GBA") Board of Governors during my tenure as President and Past President with the Bar Association from 2013 to 2017. She was highly instrumental in assisting and promoting the required functions and responsibilities of the Board. Ms. Gutierrez believes in the importance of providing on-going training and education to assist our attorneys related to changes and developments within the law. From 2006 to 2007, she served as the Chairman for the Continuing Legal Education (CLE)

**LETTER TO CHAIRMAN THERESE M. TERLAJE;**

Dated May 20, 2020

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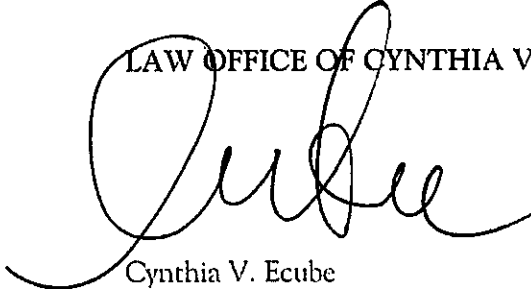
Committee for the Guam Bar and was responsible for reviewing legal training materials and conducting audits related to the compliance of annual mandatory member training and education for our for bar members. Throughout her professional career, Ms. Gutierrez has been completely dedicated and committed to promoting the "rule of law". She has accomplished this through her direct involvement and participation on several important GBA events, most notably our annual "Law Week" activities and events and has served as a long time forever member of our Bar Association's Law Week Committee for the past thirteen (13) years.

Ms. Gutierrez is also a person who possess qualities of honesty and integrity while upholding strong ethical standards. She is a hard working and conscientious individual who is committed to doing the right thing and making the best decision for the individual or entity that she represents. I am confident that she will make a valuable asset to our local court and to the community of Guam, and I fully support her confirmation as Judge for the Superior Court of Guam.

If you have any questions concerning this information, please do not hesitate to contact me. Thank you for the opportunity to present this testimony on behalf of Dana A. Gutierrez as Judge for the Superior Court of Guam.

Sincerely,

LAW OFFICE OF CYNTHIA V. ECUBE, ESQ.



Cynthia V. Ecube

## Testimony of Gloria Castro

Good afternoon Chairperson Turlajee and Honorable members of the Committee:

It is my privilege to publicly express my unqualified and heartfelt support for the appointment of Dana Gutierrez to the Superior Court of Guam. Ms. Gutierrez is exactly the person to fulfill the important role and mandate in administering justice for the people of Guam.

For purposes of identification only, I am a Senior Assistant Attorney General in the California Attorney General's Office. I am in charge of a 70 prosecutors and I represent state health care oversight agencies before judges in California state and federal courtrooms. I am both the head prosecutor on behalf of clients and, where needed, I am also the head defense counsel for my clients. Due to my public protection work, I am very experienced in the qualities, strengths and characteristics of the well-respected and fair judges. I have complete confidence that Ms. Gutierrez is prepared for the important work ahead of her. As we are all aware, she has achieved excellence in the law. I am here to add that she is an honorable person who has carefully cultivated her path over decades to possess the maturity and strength of character to contribute to society in the critical role as a judge.

I have known Dana, who I call Danita, all of her professional life, which started when we were both law students in the same class at the University of Southern California (USC). I met her in 1994 when I questioned why she had not responded to my invitation to join the La Raza Law Student Association based on what I thought was her Mexican-American name and appearance, which I thought made her a Chicana like me. She earned my respect from the moment she proudly corrected me by telling me about her life experiences as a proud Chamorro—and also told me of her plans to go back to Guam to take the bar and devote her law career to her people.

I appreciate her passion for her roots and family—the similarities in our upbringing and our people's histories bonded us. We found a kinship in the pride we both share from having come from humble roots, to have confronted racism, and to have struggled to achieve our college and law school educations. I also admired her work as a law student defending incarcerated women in the Post-Conviction Justice Protect, and her work in the Women's Law journal. The hard-work and perseverance that got her here today, she reflected to me as a fellow student in 1994 on that memorable day when we first met.

Since our graduation in 1997, we have remained close friends and professional colleagues notwithstanding the distance. I knew this day would come where I would get to tell a panel like this one how I deeply admire Ms. Gutierrez's intelligence, personal drive, fairness, compassion, talent and excellence. I value that she has never forgotten when she came from, and that she has always given back, as you can see from her public service resume. As you will hear from others today, I am not alone in deeply admiring and respecting her. I just wish I could be there in person on this proud day in Dana's personal history.

In conclusion, Ms. Gutierrez is an outstanding woman who has the quality of mind and character, and innate desire to improve the administration of justice and the lives of all. She will serve honorably in a lifelong commitment to Guam as a judge. She is selfless and will work above and beyond the hours necessary to accomplish the important work she will be called upon to perform. The diversity in her professional experiences and passions have exposed her to every walk of life. She is courageous and will speak up when she sees wrongs that must be righted. Her cultivated qualities, character traits, and diverse experiences have served to strengthen her moral fabric and compassion, and this will serve her well in this important post. I therefore strongly and proudly support and recommend her appointment as judge.

Thank you.

May 19, 2020

Honorable Therese M. Terlaje  
SENATOR, 35<sup>TH</sup> GUAM LEGISLATURE  
CHAIRPERSON, COMMITTEE ON HEALTH, TOURISM,  
HISTORIC PRESERVATION, LAND AND JUSTICE  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 96910

**RE: TESTIMONY IN SUPPORT OF THE NOMINATION  
OF DANA A. GUTIERREZ AS A JUDGE OF THE  
SUPERIOR COURT OF GUAM**

Good afternoon Madame Chair and Committee Members:

My name is Mike Pangelinan. I'm an attorney with Calvo Fisher & Jacob LLP and I am honored to have this opportunity to present testimony in support of the nomination of my good friend and colleague Dana Gutierrez as a Judge of the Superior Court of Guam.

Dana has been an attorney with our law firm for the past four years. Prior to joining our firm, Dana had already built an impressive legal career in both government and private service. She was legal counsel to the University of Guam. She was the Director of Policy, Planning and Community Relations for the Supreme Court of Guam. She was an attorney with Carlsmith Ball and also with Mair Mair Spade & Thompson. Last year, she began her first term as a member of the Guam Solid Waste Authority board of directors.

Dana also served several years as a member of the Board of Governors of the Guam Bar Association, as a member of the organizing committee for the annual Law Week events (which won multiple National Awards), as an instructor at Guam Community College, and as a Director and Officer of the Guam Chapter of the Society for Human Resource Management, also known as "SHRM." Dana is currently President-Elect of SHRM.

The diversity of Dana's impressive career demonstrates her intelligence, her dedication to the legal profession, and her genuine desire to serve the community. Dana's analytical skills are second to none but it's her ability to use those skills to achieve fair and lasting solutions to problems that makes her a great lawyer and that will make her a great judge.



## CALVO FISHER & JACOB LLP

Senator Therese M. Terlaje

May 19, 2020

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You will likely hear a lot this afternoon about Dana's quick wit and energetic disposition. You can't fully describe Dana without mentioning that. She's extremely funny and genuinely kind hearted with a disarming personality and, frankly speaking, that makes her somewhat unusual in her chosen profession. But believe me when I say that Dana's approach to legal analysis and dispute resolution is no joke.

I've known Dana for more than twenty (20) years and I've worked on projects with her on and off throughout that time – sometimes as co-counsel and sometimes as opposing counsel. I also served with Dana on the Guam Bar Association Board of Governors. Having Dana as part of our law firm these past few years has made us closer friends but it's also made me more aware of the true depth of Dana's lawyering skills.

Dana makes complicated analysis look easy because she trusts her instincts and responds quickly when presented with a new problem to solve. Dana anticipates the difficult questions her clients may face, even before they've ever faced them, and she finds answers in advance to their questions so that when problems arise for her clients she can quickly solve them. Dana is decisive. She's not one of those lawyers who always says, "I'll look into it and get back to you." She wants to have an answer for her clients now. She wants to solve their problem today.

But as decisive as she is, what's most impressive to me about Dana is how thoroughly she examines all aspects of an issue before she's satisfied forming a legal conclusion. Dana is smart and thorough. These qualities of Dana's have never shined brighter than they have over the past few months as our island has dealt with the COVID-19 crisis.

Dana takes urgent calls almost every day from distressed clients seeking advice on all of the new federal relief laws and programs that were enacted in a rush with little or no official guidance. She has a natural desire to fully understand the law before attempting to answer a client's question. When reviewing research done by another attorney on an issue, Dana is initially skeptical of the conclusion and tries to poke holes in it, to test it, to see how it stands up to challenge and scrutiny. She needs to be convinced that it is the result of a full and thorough analysis before she will accept any conclusion or use it as a basis for advice to her clients.

As I've learned over the past few months working with Dana in crisis mode, there is no one better than Dana at providing guidance through uncertain legal terrain. Dana's tendency to resist the initial conclusion and to look deep into an issue until she has a strong conviction that the analysis is solid and will withstand scrutiny has been invaluable to our clients during this crises and I believe this quality makes her perfectly suited to be a judge.

**CALVO FISHER & JACOB LLP**

Senator Therese M. Terlaje  
May 19, 2020  
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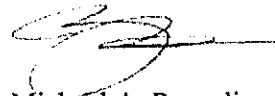
When you add to all of this Dana's unique ability to relate to people, to make them feel comfortable, to feel that they've been heard and understood, and not pre-judged, you get the full scope of what Dana will bring to the Superior Court bench as a judge. A tough and decisive person of action who forms conclusions only after thorough analysis. But also a real person who treats people with kindness and respect and who will on the bench receive their respect in return. What more could you ask for in a judge?

As someone who knows Dana as a friend and also as a colleague, I can say with confidence that Governor Leon Guerrero's trust in Dana as a Superior Court judge is well-placed. I sincerely and wholeheartedly urge the Committee to confirm Dana's nomination.

Thank you again Madame Chair and Committee Members for receiving my testimony.

Very sincerely,

CALVO FISHER & JACOB LLP



Michael A. Pangelinan

cc: Committee on Health, Tourism, Historic  
Preservation, Land and Justice  
Senator Sabina Flores Perez, Vice Chairperson  
Senator Kelly G. Marsh (Taitano), Ph.D., Member  
Senator James C. Moylan, Member  
Senator Louise B. Muña, Member  
Vice Speaker Telen Cruz Nelson, Member  
Senator Joe S. San Agustin, Member  
Senator Amanda L. Shelton, Member  
Senator Mary Camacho Torres, Member



**Lorraine Okada**

**MANAGING CONSULTING SERVICES**

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May 20, 2020

The Honorable Therese M. Terlaje  
Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice  
35th Guam Legislature

The Honorable Sabina Flores Perez  
Vice Chairperson

Members:

- Senator Kelly G. Marsh (Taitano), Ph.D.
- Senator James C. Moylan
- Senator Louise B. Muña
- Vice Speaker Telena Cruz Nelson
- Senator Joe S. San Agustin
- Senator Amanda L. Shelton
- Senator Mary Camacho Torres

173 Aspinall Avenue, Suite 207 Ada Plaza Center, Hagatna, Guam 96910

Ph.: (671) 472-3586

e-mail: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

**Subject: Dana A. Gutierrez to the position of Judge, Superior Court of Guam**

Dear Chairperson Therese Terlaje, Vice Chair Sabina Perez, and members of this committee:

My name is Lorraine Okada, a resident of Guam and owner of Okada Managing Consulting Services, specializing in the field of Human Resources. I reside at 146 Tiyan Place in Barrigada, Guam. I thank you for the opportunity to testify before your committee.

I am here to support the nomination of **Dana A. Gutierrez to the position of Judge, Superior Court of Guam**. Her wealth of experience in both the public sector and private industries provide a diverse and balanced professional viewpoint which will





**Lorraine Okada**

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allow her to make fair and impartial decisions. This along with her active involvement in the community, strong family values, her educational background and her open-mindedness, are just a few of her qualities that make her the best candidate to preside as Superior Court judge.

I met Dana Gutierrez 22 years ago, in 1998. She was the legal counsel under the law firm of Carlsmith Ball LLP, while I was the Director of Human Resources for a financial institution. During that period, I watched with pride as she excelled in all aspects of her role as a Labor and Employment attorney, guiding me every step of the way, taking precautions to ensure employment laws and fair employment practices are implemented. This guidance and mentoring paved the way for my growth and expertise in the field of human resources.

Three years after working with her, in 2001, I was hired to manage the law office of Carlsmith Ball. It was then that I was even more impressed, as she exemplified the absolute best in the legal profession. While working with her behind the scenes, I was able to witness firsthand her passion for justice and the law, as well as her ability to keep a contemplative, open mind.

I have known Dana both professionally and personally throughout my career. I quickly learned she has tremendous work ethics. I know she is a dedicated and passionate attorney. She is always available to respond to challenging issues, and became a mentor and coach for managers, supervisors, and human resources professionals. She provides guidance in avoiding the pitfalls of labor and employment laws.

To expand her ability to help others in the field, Dana volunteered her time to assist with the Society for Human Resources Management (SHRM) and because of her strong leadership was voted to become President of the organization. In her capacity, she shared her knowledge and her ability to apply legal rules, analyses and procedures





**Lorraine Okada**

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to different facts and circumstances, and the ability quickly to perceive, comprehend, and understand new concepts and ideas.

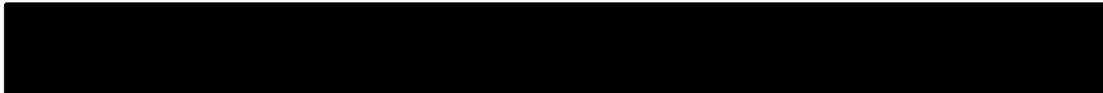
I find her to be fair and impartial. She would not overlook the smallest of details, regardless of whether that detail would benefit her case or the opposition's. She has the proper judicial temperament, patience, courtesy, tact, courage, firmness understanding, compassion, humility and common sense.

These qualities along with her experience, and the open mind, defines her as truly exceptional to serve as a judge of the Superior Court of Guam, and a great addition to Guam's fine group of Judges.

Thank you for the opportunity to testify. I hope you will vote on her behalf with great confidence that she will do an excellent job.

Sincerely,

Lorraine S Okada  
Owner  
Okada Managing Consulting Services





# RESEARCH CORPORATION OF THE UNIVERSITY OF GUAM

May 19, 2020

Honorable Therese Terlaje  
Senator, 35<sup>th</sup> Guam Legislature  
Chair, Committee on Health, Tourism, Historic Preservation, Land and Justice  
173 Aspinall Avenue,  
Suite 207 Ada Plaza Center  
Hagatna, Guam 96910

Subject: Testimony in support of the appointment of Dana A. Gutierrez to serve in the position of Judge, Superior Court of Guam.

Honorable Senator Terlaje and members of the Committee on Justice. I am testifying in support of Dana A. Gutierrez's appointment to serve in the position as Judge, Superior Court of Guam.

I first met attorney Gutierrez, Dana, when we worked together at the University of Guam from 2003 to 2005. Dana was part of the University's management team and her intellect and work ethic were readily apparent as she resolved personnel and legal issues for the institution. Ms. Gutierrez oversaw the University's EEO training and ensured training was implemented across UOG. Her expertise in human resources was instrumental in strengthening ADA policies and practices and resulted in fair accommodations for UOG students with disabilities. She worked the management team and with the Board of Regents and to develop policies for UOG that strengthened the institution as a whole. Her understanding of personnel rules and regulations and case law enabled her to provide input and opinions that guided the management team in developing solutions to challenging issues.

Through her work at the University, which has thousands of students and hundreds of employees, I was able to observe Dana's measured, matter of fact approach to solving problems. I experienced first-hand her intelligence, her ability to work in teams, her compassion, knowledge of the law, and her sense of fairness and justice, as well as her sense of humor. Dana is forthright and honest. Dana never failed to layout the facts and legal basis supporting her recommendations.

During her time at the University, Dana also participated in planning Charter Day activities with former vice president, the late Dr. Jeff Barcinas, and took part in managing the thousands of visitors to campus. Dana participated in Charter Day and other UOG activities such as commencement ceremonies because she was a committed member of the UOG community and understood the value of those activities to institutional life. Everyone who worked with Dana admired her, laughed with her, and listened to her because we respected what she had to say. Importantly, she also listened carefully to the opinions of others including students, faculty, and



## RESEARCH CORPORATION OF THE UNIVERSITY OF GUAM

administrators. She has a strong ethical core, reasoned temperament, and a sharp intellect all of which make her ideal candidate to serve as a Superior Court of Guam Judge.

We met at UOG 2003 and have remained friends for over 17 years because she is a talented professional and delightful person. I fully endorse and support Dana Gutierrez, daughter of Guam, and hope you will confirm her appointment as Judge for the Superior Court of Guam. The island will benefit from her knowledge of the law, her absolute professionalism, compassion, and intellect to ensure justice is served. Our community will be stronger with attorney Gutierrez on the bench.

Sincerely,

Cathleen Moore-Linn  
Executive Director, Research Corporation of the University of Guam



May 20, 2020

RE: Testimony for Dana Gutierrez, ESQ for the position of Judge, Superior Court of Guam

Good Afternoon and thank you Senator and Chairperson Therese M. Terlaje and members of this committee for allowing me to provide testimony and support for Ms. Dana A. Gutierrez for the position of Judge to the Superior Court of Guam.

My name is Charlotte D. Huntsman, President of the Society for Human Resources Management (SHRM) Guam Chapter, a non-profit organization of over 200 individuals and part of the national SHRM organization that is present in over 160 countries with a membership of over 300,000 people. I am providing testimony on behalf of the Board of Directors of the SHRM Guam Chapter, which is comprised of 12 volunteer Human Resources Professionals representing various industries on Guam. SHRM Guam Chapter has supported the growth and development of the HR discipline on Guam since 1990 and is the one and only human resource organization whose main purpose is to advance the HR profession.

I am honored to speak to you today and excited to give my support of Ms. Gutierrez for this prestigious role with the Superior Court of Guam. Dana has been a member of the SHRM Guam Chapter for over 21 years, since 1998. She has served as an expert panelist at numerous SHRM Guam events, focused on the application of various employment laws. For the past five (5) years, she has served on the Board in the positions of Vice President of Legislative Affairs and most recently as President-Elect. In her roles, she has been instrumental in shaping the fundamental facets of the Fair Chances Hiring Act from not only a legal perspective, but more importantly, from a human resources perspective. As the VP of Legislative Affairs for SHRM Guam Chapter, Dana worked collaboratively with Senator Mary Torres to ensure that this law balanced the interests of the business with the challenges of marginalized job seekers. She understood the importance of providing a second chance to individuals with former convictions so that they can be gainfully employed and put a stop to the cycle of recidivism. More recently, she worked together with Senator Regine Biscoe Lee's proposed Worker's Compensation law, which provides relief to employees who are injured at work so they may properly heal until they can safely return to work while alleviating the worry of how to provide for their family.

Dana balances the dichotomy of characteristics such as diligence, conscientiousness, practicality, and decisiveness with those of compassion, caring, empathy, and kindness. She is logical and intelligent, but also extremely down to earth! Her passion for fairness runs deep, which is evident in the projects SHRM Guam has been involved, such as the Fair Chances and the revised Workers Compensation bills. Dana's intellectual integrity, sound moral compass, principled reputation and genuine interest in helping the island has guided many businesses to interpret the law to protect themselves and the people of Guam. Her passion for supporting businesses navigate through federal and local laws is highly respected within the HR community. Her balanced, logical and methodical approach has helped many HR professionals learn how to navigate the intricacies of the American with Disabilities Act, Family Medical Leave Act, and Equal Employment Opportunity.

I have had the pleasure of working with Dana these past five years as a Board Member for SHRM Guam Chapter and I know that I can always depend on her for not only her knowledge for the law but most

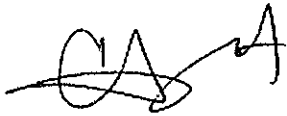


importantly her voice of reason. She is an especially great listener and is the person I go to when I just need to vent! When I am done venting, she empathizes and then asks all the right questions to help determine the right approach to the situation. As a human resource professional for over 20 years, these are the kinds of traits I look for in a leader and an influencer. These are the qualities we look for when leading an organization like the SHRM Guam Chapter, and the characteristics that make us absolutely certain that Dana is the right person for this role.

Next year, Dana would have been President of the SHRM Guam Chapter, and we were all looking forward to seeing her at the helm of the SHRM Guam Chapter. Her leadership would have brought even more prominence and credibility to the organization. Although we are very sad that Dana will not be able to fulfill the role of President with the SHRM Guam Chapter, we are certain that she will bring her knowledge, fairness and verve when she is Judge. I, along with the Board of Directors of the SHRM Guam Chapter, provide our wholehearted support of the appointment of Ms. Dana Gutierrez as a Judge to the Superior Court of Guam.

Thank you for your time and for allowing me the opportunity to provide this statement in support of Ms. Dana A. Gutierrez.

Respectfully,

A handwritten signature in black ink, appearing to read 'CHUNTSMAN', with a stylized flourish extending to the right.

Charlotte D. Huntsman, MA, SHRM-CP, PHR  
President  
SHRM Guam Chapter

May 20, 2020

Senator Therese M. Terlaje  
Chairwoman  
Committee on Health, Tourism, Historic Preservation, Land & Justice  
*I Mina' Trentai Singko Na Liheslaturan Guåhan*  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910  
Via email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

Re: Appointment of Ms. Dana A. Gutierrez as Judge, Superior Court of Guam  
Supporting Testimony

Buenas yan Háfa Adai Senator Terlaje,

Thank you for allowing me to testify in favor of the appointment of Dana Gutierrez as Judge to the Superior Court of Guam.

I am fortunate to know Dana personally and professionally. Our friendship began 34 years ago, during our formative years, as classmates at the Academy of Our Lady of Guam and continues today. During our high school time, Dana was well-regarded, studious, and highly engaged. Her intelligence and ambition led her to University of Southern California where she completed her undergraduate education, and later to USC's Gould School of Law. As we transitioned into our adulthood and explored ZIP codes, Dana remained a caring friend and a means for many to keep in touch with each other. I have been told that a good friend is a connection to life – a tie to the past, and a road to the future. Dana has been that good friend – the constant that keeps her community of friends grounded and connected.

While working with my family company years ago, I was faced with a difficult employment issue. I remembered that Dana had specific experience in employment law and contacted her. I was hesitant to engage her legal services, preferring to keep friendship and business separate; however, Dana was deeply knowledgeable in the particular field of law, so I proceeded. Dana allayed my fears, providing a frank assessment, issuing sound advice and clear options with the possible consequences. Our personal relationship had no bearing on her professional advice; she exceeded my expectations. I had the occasion to work with her on other legal matters, where she again demonstrated her deft legal skills and knowledge, urging mutual resolution over court proceedings.

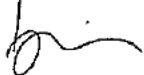
I have had the pleasure of working with Dana on non-profit boards and professional associations. Two that are most notable are the Guam Girl Scouts and the Society for Human Resource Management (SHRM) – Guam chapter. In both cases, Dana volunteered her time, leading and managing working committees with dedication and compassion. She never shied away from offering advice pro bono, as permitted. Her contributions strengthened these groups, advancing them for the good of the community and the many clients they serve.

My friendship and professional relationship with Dana over the past 34 years have certainly proven her strong leadership, integrity and knowledge of the law. The responsibilities of judgeship should not be taken lightly nor be swayed by strong winds of politics or popularity. I am confident that Dana Gutierrez is an

ideal candidate to assume such responsibilities as a Guam Superior Court Judge. I pray that you share my confidence and confirm Dana's appointment.

Si Yu'os ma'åse' for allowing me this time to testify before you today.

Senscramente,



Tricee P. Lintiaco



Joann Waki Muna, SHRM-SCP, SPHR

May 20, 2020

Honorable Therese M. Terlaje  
Senator, 35<sup>th</sup> Guam Legislature  
Chairperson, Committee on Health, Tourism, Historic Preservation, Land and Justice  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 96910  
[senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

**RE: TESTIMONY IN SUPPORT OF DANA A. GUTIERREZ  
JUDGE OF THE SUPERIOR COURT OF GUAM**

Hafa Adai Madame Chair,

My name is Joann Waki Muna. I am a Human Resources Professional. I recently retired from the Guam Community College as the Chief Human Resources Officer. Additionally, I recently retired from serving as the Pacific Council State Director for the Society of Human Management (SHRM).

I'm testifying today in full support of Dana A. Gutierrez as the 8<sup>th</sup> Judge of the Superior Court of Guam. I first met Dana at a SHRM luncheon in 1998. In 1998, SHRM Guam Board was working hard to recruit members, volunteers and board members to take Guam's HR Professionals to an all new heights. For the past 22 years Dana has been a part of SHRM Guam. She has been a dedicated volunteer, she has held numerous officer positions, she has chaired numerous SHRM Conferences, and currently she is the President-Elect. She is on schedule to be the SHRM Guam President for 2021 & 2022. But of course, that's getting ready to change.

I would like to take this opportunity to share the SHRM "Purpose, Mission & Vision"

*Our purpose is to elevate the HR Profession.*

*Our mission is to empower people and workplaces by advancing HR practices and by maximizing human potential.*

*Our vision is to build a world of work that works for all.*

Dana has been instrumental with SHRM Guam staying true to the SHRM Purpose, Mission & Vision. She has played major roles in educating and advancing the HR profession on Guam. Because she has been a member and volunteered for more than two decades, I will list just a few of her impactful work in general. If you would like details and specifics, I will be more than happy to provide that at later time.

Dana has represented SHRM Guam numerous times as the VP for Legislative Affairs and has attended SHRM Legislative Conferences in Washington DC. She has prepared and presented numerous "Employment Law Updates" to the professional members on an average of once a year. Sometime more depending on the legal climate (i.e. legalization of cannabis). Her legal credibility draws in other lawyers who attend and obtain Continuing Education credits for Lawyers (CEL) for attending her SHRM presentations.

Dana has worked with the SHRM Board and Senators on numerous bills and updating laws on HR matters, a few examples include: The Fair Chance in Hiring Act, Family & Medical Leave Act and Worker's Compensation Act. This is a difficult task as many HR Professionals try to balance legal requirements with all other aspects of the workplace. Dana does a wonderful job in getting us to all work collaboratively and getting Senators, Directors and HR Professionals to a resolution. Some of you Senators have experienced working firsthand with some of us HR Professionals and know that without Dana some things would not have been done.

Dana is intelligent and witty. Because of these two strengths, she does an awesome job in training and educating not only the HR Professionals and lawyers, she has also taught at the Guam Community College. I guest spoke at one of her Employment Law class and her students told me that that love having her as an instructor because "she is not boring", "she makes class fun and as a result we are learning".

Dana has served and chaired numerous committees and conferences for SHRM. Please visit the [guam.shrm.org](http://guam.shrm.org) website to see all the awards that SHRM Guam has won. Dana has always played a role in SHRM Guam's success. Dana has written numerous articles for SHRM and has been featured in the SHRM Guam Annual Magazine and Marianas Business Journal. Copies of these has been provided to the Guam Legislature each year.

Senators, the list goes on and on about Dana's volunteerism and professionalism with SHRM. All her hard work and dedication resulted is "ZERO" financial pay from SHRM. We all know that Attorneys charge an arm and a leg for legal work. Well, there were days when Dana dedicated her entire body to SHRM. Dana is what I called a true servant of the public. Dana knows that helping the HR professionals' results in helping the workplace which in turns helps our people and improves our island. The evidence of Dana's contributions to SHRM can be translated to what will make her a great judge. Her knowledge with federal and local laws, her critical thinking skills, her ability to empathize and her communication skills, most especially her listening skills.

I've only spoken about Dana's role with SHRM. But as you can see in her resume and by the testimonies of others, Dana does so much more. She works full-time as an Attorney; she serves on other Boards and does other community work. She is a daughter that helps take care of her parents, she is a wife and a mother to two dogs. Dana truly has all the right stuff to be the next Judge for the Superior Court of Guam.

Thank you, Senators for allowing me to say just a few things about Dana A. Gutierrez.

Joann Waki Muna

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(671) 472-2089 / (671) 477-5208 FAX  
WWW.TTALAW.NET

May 20, 2020

**VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

Honorable Therese M. Terlaje  
Chairperson  
COMMITTEE ON HEALTH, TOURISM, HISTORIC  
PRESERVATION, LAND AND JUSTICE  
35<sup>th</sup> GUAM LEGISLATURE  
173 Aspinall Avenue, Suite 207  
Hagåtña, Guam 96910

**Re: Confirmation of Dana A. Gutierrez, Esq. for Judge, Superior Court of Guam**

Dear Honorable Senator Therese Terlaje and Members of the Legislative Committee on Justice:

I am very pleased to provide this testimony to support the confirmation of my friend and colleague, Dana A. Gutierrez, as the next judge for the Superior Court of Guam.

I first met Dana back in 2008, very early in my legal career. I was hired as an associate in the law firm of Mair Mair Spade & Thompson, where Dana was already a partner. And in 2014, Ms. Gutierrez and I later became partners in the law firm of Thompson Gutierrez & Alcantara. Indeed, we have worked a long time together. I am therefore very familiar with the qualities that make Dana suitable for appointment as a trial court judge.

In particular, I have always known Dana to be patient, dignified, and courteous to clients and opposing counsel. Not once have I ever witnessed Dana treat a client or opposing counsel with disrespect or hostility. I have no doubt that she will bring this type of professionalism to her courtroom, and will treat each litigant, lawyer, and witness with the same patience, dignity, and courtesy she has always exhibited throughout her career.

As Dana's former associate and later business partner, I am also very familiar with her legal work. I can attest that Dana certainly has the requisite competence to interpret and apply established legal principles to factual situations. In resolving legal issues, she methodically works through a legal problem, and then carefully arrives at a thoughtful conclusion. And correspondingly, she also possesses all the skills necessary to communicate, in speech and in writing, her thoughtful reasoning behind any legal conclusion.

Honorable Therese M. Terlaje  
May 20, 2020  
Page 2 of 2

In addition, in all the years I have known her, Dana has exhibited integrity in her legal work and has maintained a consistent adherence to high ethical standards. I have never known her to be untruthful and dishonest; or to knowingly circumvent rules to achieve a personal or professional objective.

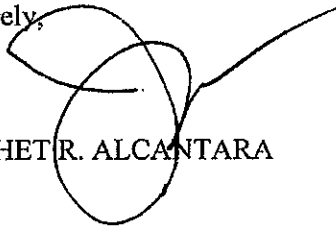
Finally, Dana has devoted a significant portion of her time and energy to improving our legal system in Guam, through her active membership in local and national non-profit organizations, government boards, professional associations, and Guam Bar Association committees. In fact, Dana has personally expressed to me her desire to pivot to public service. Indeed, her career-long involvement in community activities—such as serving on the board of directors for the Guam Girl Scouts and the Guam Solid Waste Authority, and holding numerous leadership positions with Guam’s Society for Human Resource Management—exemplifies such commitment to public service.

It is with deep conviction that I urge the Committee to recommend the confirmation of my friend and colleague, Ms. Dana A. Gutierrez, as the next judge for the Superior Court of Guam.

Thank you so much for you time.

Sincerely,

JOEPHET R. ALCANTARA

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

JRA/vrsp  
L203003.JRA

May 19, 2020

VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

Honorable Therese M. Terlaje  
Chairperson  
Committee on Health, Tourism, Historic  
Preservation, Land and Justice  
1 Mina'trentai Singko na Liheslaturan Guahan  
173 Aspinall Ave.  
Hagatna, Guam 96910

Dear Senator Terlaje and Members of the Committee on Health, Tourism, Historic Preservation,  
Land and Justice:

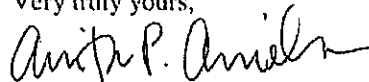
I strongly support the nomination of Dana Gutierrez as a judge to the Superior Court of Guam.

I have known Dana for over 20 years, when she returned to Guam after law school and first started practicing law in Guam in 1997 at the Carlsmith Ball firm. In that time, I have seen her grow as a lawyer and as a person. She has sought my advice and counsel regarding her practice and her professional development. I think it says a great deal about her that she would reach out to another lawyer to seek guidance and mentoring, especially in a profession that is ultra-competitive.

Dana would be a very fine Superior Court judge. She has a distinguished resume as a practitioner and she has developed an expertise in human resources, labor, and employment issues. She is considered an expert on these matters in Guam. She has excellent judicial temperament, a good sense of humor, self-discipline, and varied interests outside of the law (which I think is extremely important). Her work product is superior because she has a keen legal mind, and has demonstrated her ability to analyze complicated legal issues and apply the law appropriately. I believe that she will make decisions that are just and fair, that she will be unbiased and impartial, and that she will be an intelligent, wise, and patient judge.

I hope it is obvious that I hold Dana Gutierrez in the highest regard. I would be so proud to see her appointment to the Superior Court of Guam confirmed. If I can answer any questions about my knowledge of Dana, I would welcome the opportunity to speak with any member of the Guam Legislature.

Very truly yours,



ANITA P. ARRIOLA



May 19, 2020

VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

Honorable Therese M. Terlaje  
Chairperson, Committee on Health, Tourism, Historic  
Preservation, Land and Justice  
I Mina'trentai Singko na Liheslaturan Guahan  
173 Aspinall Ave.  
Hagatna, Guam 96910

Hala Adai Senator Terlaje and Members of the Committee on Justice:

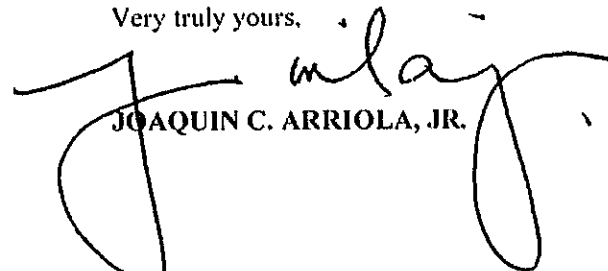
I proudly support the nomination of Dana Gutierrez as Judge of the Superior Court of Guam.

I have known Dana since the 80's, and throughout her professional career. As a private practice lawyer and government counsel, Dana has worked both sides of the arguments presented in court, and she is well-positioned to assume the role of judge. Dana is humble and compassionate, yet she can also be firm and stern in her decisions. She knows what it's like to work daily in our courts, and I am confident she brings to the bench the necessary background and experience to step up to the plate, hit the ground running and move the wheels of justice.

As well, I commend Dana's commitment to public service through her years of service to the Guam Bar Association and Guam Law Library, including her active participation in Guam's ABA Award-Winning Law Week committees. Dana's service to our legal community as a "bar junkie" is a tribute to her commitment to doing what is right and good for our island's administration of justice. These are just a few of her significant attributes and qualifications to sit on Guam's judiciary.

I have no reservations in my support of Dana Gutierrez as Superior Court judge, and I encourage I Liheslaturan Guahan to confirm her nomination soonest.

Very truly yours,



JOAQUIN C. ARRIOLA, JR.

[jarriola@arriolafirm.com](mailto:jarriola@arriolafirm.com)

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& ALCANTARA  
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WWW.TTALAW.NET

May 19, 2020

**VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

Senator Therese M. Terlaje  
Guam Congress Building  
163 Chalan Santo Papa  
Hagätña, Guam 96910

**Re: Confirmation of Dana A. Gutierrez, Esq. for Superior Court Judge**

Dear Senator Terlaje:

I am pleased to submit this testimony in support of the confirmation of Dana A. Gutierrez, Esq. as Superior Court Judge. I had hoped to testify in person, but appreciate that this process must advance in a manner appropriate to these challenging times.

I have had the pleasure of working with Dana in my Guam private law practices for more than a decade. Dana joined the former law firm of Mair, Mair, Spade & Thompson (the "Mair Firm") as an Associate in 2005. At one point, the Mair Firm was the largest law firm in the Marianas.

We at the Mair Firm were impressed with Dana's abilities, accomplishments and client-relations skills; and we eventually elevated her to partner just a few years later. Dana was an indispensable team member servicing the Mair Firm's corporate and commercial client base, particularly with respect to human resource matters.

Actions speak louder than words. When the Mair Firm wound down in 2014, I asked Dana to join me and two other senior lawyers as partners in a new firm, Thompson Gutierrez & Alcantara. Obviously, the selection of a law partner is a big decision. I would not have asked Dana to join the firm if I had any doubts about her abilities or integrity.

I take pride in noting that, if confirmed, Dana would be the third former Mair Firm member to be appointed to a Superior Court bench, after the Honorable Maria Cenzone (Guam) and Ken Govendo (CNMI). I believe Dana has the qualities it takes to be a dedicated and effective Superior Court Judge; and I strongly urge the Committee to recommend her confirmation to the bench.

Warm regards,

  
R. TODD THOMPSON

RTT:ssn/ L202020.RTT

THOMPSON THOMPSON  
& ALCANTARA  
A PROFESSIONAL CORPORATION  
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(671) 472-2089 / (671) 477-5206 FAX  
WWW.TTALAW.NET

May 19, 2020

**VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

Honorable Therese M. Terlaje  
Chairperson  
COMMITTEE ON HEALTH, TOURISM, HISTORIC  
PRESERVATION, LAND AND JUSTICE  
35<sup>TH</sup> GUAM LEGISLATURE  
173 Aspinall Avenue, Suite 207  
Hagåtña, Guam 96910

**Re: Confirmation of Dana A. Gutierrez**

Dear Chairperson Terlaje:

This letter is written in support of the confirmation of Dana A. Gutierrez as a judge in the Superior Court of Guam. Having worked with Dana, both as a member of the Board of Trustees of the Guam Law Library, and also as a member of my law firm, I can confidently state that she will be an asset to the Court if confirmed.

Dana is both capable and conscientious, and I believe that she will render justice fairly and impartially as a jurist. I strongly urge the legislature to confirm Dana as the next judge of the Superior Court of Guam.

Sincerely,

  
MITCHELL F. THOMPSON

MFT/vrsp  
L203017.MFT



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Dana Gutierrez**

1 message

Tim Roberts &lt;Roberts@guamlawoffice.com&gt;

Tue, May 19, 2020 at 12:35 PM

To: "senatorterlajeguam@gmail.com" &lt;senatorterlajeguam@gmail.com&gt;

Senator Terlaje:

I have known Dana as a friend since the late 1990's. During the last four years, I have had the opportunity to be her co-counsel in an EEOC matter pending against a client of our law firm, since employment law is not a specialty of mine. She has been an inspiration and a joy to work with. Our EEOC client trusts her more than us, which I've encouraged, but she has not. After learning of this Wednesday's confirmation hearing, Dana worked day and night to finish a pending response to the EEOC, sending it last Friday afternoon. She could have left this task to me, but she finished it herself as a matter of professional pride.

Dana is highly intelligent and capable. Her easy-going and friendly demeanor will serve her well on the bench. She is also a punctual and hard worker, which are two of the traits the private bar looks for in new judges. I think the world of her. The Governor could not nominated a better choice for the vacant judge's seat.

Dana's only downside is that she is a died-in-the-wool undergraduate and law school USC Trojan, while you and I (and the Governor and the First Gentleman) are and will always be loyal UCLA Bruins.

Tim Roberts, Esq.

Roberts Fowler &amp; Viskosky LLP

865 South Marine Corps Drive Suite 201

Tamuning, Guam 96913

Telephone No. (671) 646-1222

Facsimile No. (671) 646-1223

E-mail: roberts@guamlawoffice.com

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Senator Therese Terlaje <senatorterlajeguam@gmail.com>

## Testimony in Support of Dana Gutierrez nomination for judge

1 message

**Marcia Schultz** <mschultz@mlsg.law>  
To: senatorterlajeguam@gmail.com

Tue, May 19, 2020 at 3:17 PM

Testimony of Marcia K. Schultz, attorney with Marianas Legal Strategy Group, LLC in Saipan, in support of nomination of Dana A. Gutierrez to the position of Judge, Superior Court of Guam.

I first met Dana Gutierrez in 1997, when she was a young lawyer, starting her career at the Carlsmith Ball law firm in Guam. I was an administrative law partner in the Saipan office of Carlsmith Ball and a member of the firm's labor and employment section – and often traveled to Guam for office administration matters and to support the work of the lawyers in the labor and employment section. Dana joined Carlsmith's labor and employment section and I had the pleasure of working with her on several projects. One of my best memories of Dana is when we were working together on a week-long project in Guam, with another attorney from Honolulu. Although just a new attorney, Dana pitched right in, anticipating how she could help, and working late with us night after night, doing whatever it took to meet deadlines and successfully complete the client's project. Dana was willing to work hard, and as importantly, she was interested in learning. She took full advantage of an opportunity to work in Carlsmith's Honolulu office for several months, simply in order to gain expertise and greater experience in her chosen area, employment law. Her hard work and dedication paid off. Over the years she has grown, and Dana has become an outstanding lawyer, with a broad range of experience representing private clients and working within the government. She has achieved excellence in her field of work. Yet, despite her success, Dana has remained a down-to-earth and caring individual. She has given back to her community, with her volunteer work in the Society for Human Resources, mentoring others and providing her expertise to young HR professionals. She listens, she cares, and she seeks to do what is right. I have full confidence in Dana's abilities to serve as a judge – to listen, to be fair, to be prepared, to work hard, to follow the law, and to seek justice. These are all qualities that will serve her well as a judge. I fully support the nomination of Dana as a Superior Court Judge for Guam.

Best regards, Marcia

Marcia K. Schultz

Member | Marianas Legal Strategy Group, LLC



Marianas Legal Strategy Group LLC

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**Office Location:**

Security Title Building, 2<sup>nd</sup> Floor, Isa Drive, Capitol Hill, Saipan, MP 96950 (USA)

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Box 10001, PMB 323, Saipan, MP 96950 (USA)

**TELEPHONE:** (670) 322-9991 **FAX:** (670) 322-9993 **WEB:** www.mlsg.law **EMAIL:** mschultz@mlsg.law

LAW OFFICES OF  
**MINAKSHI V. HEMLANI**

May 19, 2020

**VIA ELECTRONIC MAIL**

Senator Therese M. Terlaje  
35th Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910  
[senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)

**Re: Nomination of Dana A. Gutierrez as Judge, Superior Court of Guam**

Dear Senator Terlaje,

This letter is written to express my support for the nomination of Dana A. Gutierrez to serve as Judge in the Superior Court of Guam. I have known Dana as a friend and colleague for well over ten (10) years, so I am able to testify to her personal character and work ethic.

Dana would be an asset to the Judiciary. She has years of experience in different areas of legal practice that have refined her ability to analyze complicated legal issues and apply the law appropriately. In working together with Dana on the Guam Solid Waste Authority Board and on the Guam Bar Association Law Week Committee, I have witnessed Dana's hard-work and integrity. She is a team player, able to get along with most everyone, and has a great sense of humor. This ability to empathize and show kindness is an important quality in a Judge. I am confident that Dana will make decisions that are just and fair.

I whole-heartedly support Dana's nomination and encourage you and all the senators of the 35<sup>th</sup> Guam Legislature to confirm her as a Judge of the Superior Court.

Thank you for your time and consideration.

  
Minakshi V. Hemlani, Esq.

May 19, 2020

**VIA ELECTRONIC MAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

**HON. THERESE M. TERLAJE**  
Chair, Committee on Health, Tourism,  
Historic Preservation, Land, and Justice  
173 Aspinall Avenue  
Suite 207 Ada Plaza Center  
Hagåtña, Guam 96910

**RE: APPOINTMENT OF DANA A. GUTIERREZ AS JUDGE, SUPERIOR COURT  
OF GUAM**

Dear Chairperson Terlaje and Senators,

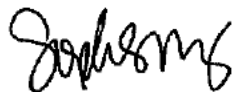
Attorney Dana A. Gutierrez is a colleague, a former co-worker, a good friend, and a bitter rival (~~fight on!~~GO IRISH!). She is knowledgeable, compassionate, fair-minded, and enthusiastic. These are all characteristics that will serve her well as a trial court judge, charged with dispensing justice in an efficient and effective manner.

Dana and I have known one another for a least fifteen years – since I was just a newly-licensed attorney and she was a young associate. We have served together on various Guam Bar and justice-related committees, including the Board of Trustees for the Guam Law Library and the Guam Law Week Committee. In those contexts, I have admired her energy and willingness to offer constructive criticism when appropriate.

We worked together closely while both employees of the Judiciary of Guam where she served as Director of Policy, Planning and Community Relations and I served as Staff Attorney. While I had always had respect for Dana as a colleague in the Guam Bar, it was not until I had the opportunity to work together with her at the Judiciary that I came to understand how diligent she is in carrying out her duties. As she prepares to return to that branch of government, I am confident that she will continue to demonstrate all the of traits that have allowed her to achieve significant professional and personal achievements.

I believe Dana is a worthy addition to the Superior Court bench. I am grateful to have this opportunity to say so.

*Senseremente,*



SOPHIA SANTOS DIAZ



LEVINSON ARSHONSKY & KURTZ, LLP  
15303 Ventura Blvd., Suite 1650  
Sherman Oaks, CA 91403  
TELEPHONE (818) 382-3434  
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hcolindres@laklawyers.com

May 19, 2020

The Honorable Therese M. Terlaje  
Chairperson, Committee on Justice  
35<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910  
Email: senatorterlajeguam@gmail.com

Re: Support of Dana A. Gutierrez's Judicial Nomination

Dear Chairperson Terlaje:

My name is Helen Kim Colindres, formerly Helen Min Kim. I am writing to express my support for Dana A. Gutierrez to be confirmed as a Judge of the Superior Court of Guam. Based on my personal and professional knowledge of Dana, she will be an excellent Judge and represents the fairness and personal integrity required to serve Guam.

I am a former Guam resident and have known Dana since I was a kindergartner at Agana Heights Elementary School. I graduated from the Cathedral Grade School and attended Bishop Baumgartner Junior High School. I graduated in 1992 from the Academy of Our Lady of Guam with Dana's sister and my lifelong friend, Hannah Gutierrez, and, where Dana graduated with the Class of 1989 along with my sister, Diane Hee Ji Kim, which I know is a common scenario on Guam. Dana was also my roommate in Los Angeles during her third year at USC Gould School of Law and my first year at UCLA School of Law. Despite the cross-town rivalry, we remain friends. I also worked with Dana at the Guam office of Carlsmith Ball LLP where she was an associate attorney and I was a summer associate attorney. I am currently a litigation partner at Levinson Arshonsky & Kurtz, LLP in the Los Angeles area.

Dana has always had an internal drive to succeed in academics as well as in her work. She worked hard to be accepted to USC as an undergraduate student from Guam and worked even harder there, as evidenced by her acceptance to the USC Gould School of Law. Dana has worked for many prominent law firms on Guam, with the University of Guam, and the Judiciary of Guam. Dana has volunteered her time for many organizations on Guam.



The Honorable Therese M. Terlaje  
May 19, 2020  
Page 2

But these are things that you probably already know or can hear from others. The things I believe that will make Dana an excellent judge are ones I have observed personally. Dana likes to understand matters and is not afraid to question the answer or the person if she thinks something is not right. I have observed Dana following-up with colleagues to express that something did not sound right or that something needed to be better expressed. Dana freely offers help and advice. Dana helped me look for law jobs on Guam before the internet was ubiquitous and gave me her thoughts as to the firms and about the legal practice on Guam.

Most of all, Dana loves Guam. As one who has hosted Dana in Los Angeles a few times, I know that she, like many of us, cannot stop talking about Guam and her greatness, especially with non-Guamanians. While Dana had many available choices after graduating from such a prestigious law school as USC, Dana never wavered in her choice to return and practice on Guam. Having grown up on Guam with a large and loving family, she wanted to return. Due in part to that background, Dana understands the people of Guam, our ups and downs and the need to keep Guam great. She is strict but will be fair.

As a litigator who is constantly in courtrooms here in Los Angeles, I would love to see more judges like Dana here: smart, with common sense, in touch with the people, and willing to help.

I wish I could be on Guam to express all of this and more in person with you but, unfortunately, due to the current Covid 19 crisis and other commitments, I cannot. I hope this information will be of assistance to your Committee in its consideration of Dana's nomination. I thank you for your time and attention, and urge you to support her confirmation.

Very truly yours,

/S/

HELEN KIM COLINDRES  
LEVINSON ARSHONSKY & KURTZ, LLP

Law Offices Of  
JOHN C. TERLAJE  
ATTORNEY AT LAW  
Suite 216, Terlaje Professional Building  
194 Hernan Cortes Avenue  
Hagatna, Guam 96910  
Tel 477-8894 Fax 472-8896

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May 19, 2020

Honorable Senator Therese M. Terlaje  
35<sup>th</sup> I Liheslaturan Guahan  
173 Aspinall Avenue  
Suite 207 Ada Plaza Center  
Hagåtña, Guam 96910

Re: Confirmation of Dana A. Gutierrez; Superior Court of Guam

Dear Senator Therese M. Terlaje,

This letter is written in support of nominee Dana A. Gutierrez to the position as Judge on the Superior Court of Guam. I have known Dana for over a decade as an attorney and as a friend. As an attorney she has demonstrated great understanding of the law and the processes of the judicial system. She was formerly employed at the Judiciary and that experience will help guide her when it comes to the organization and administration of the courts. She is also very understanding and sincere to her clients and will always have their best interest in mind. She is a very professional attorney and she shows great decorum and respect to the courts and to her fellow attorneys, which is not always the case with attorneys. She does not demean any one as she actively and vigorously represents her clients. These attributes, that were mentioned, will assist her in any position that she may achieve but will be especially conducive to her as a Judge. Her temperament, knowledge and experience will be a great benefit to the Judiciary of Guam, and she will be a tremendous representative of the people of Guam.

She has shown concern for her family, friends, clients as well as to the island of Guam. The courts need people who understand the people of the island, their culture and customs as well as the struggles that the people have endured.

If you have any question in regards to this letter please feel free to write me at [john@terlaje.net](mailto:john@terlaje.net).

Sincerely,

  
John C. Terlaje



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

# Written Testimony re: Confirmation Hearing re: Attorney Dana Gutierrez as Superior Court Judge

1 message

Jesse N. Nasis <[REDACTED]>  
To: senatorterlajeguam@gmail.com

Wed, May 20, 2020 at 8:37 AM

*Buenas yan Hafa adai* Senator Terlaje,

I gladly write this letter for the purpose of supporting Attorney Dana Gutierrez's confirmation as the newest Judge of the Superior Court of Guam.

I met Attorney Gutierrez 12 years ago in 2008, when I had just started my own legal career. At that time, she was already an established partner with Mair, Mair, Spade & Thompson.

Attorney Gutierrez is a well-rounded professional whose vast institutional knowledge includes her joint ownership of Thompson, Gutierrez & Alcantara; her public service with the Judiciary of Guam; and her continued private legal practice with Calvo & Fisher.

Attorney Gutierrez has unparalleled legal acumen in the field of employment law and particularly human resources law, which includes her longtime service with the Society of Human Resource Management.

I strongly believe that Attorney Gutierrez has earned a seat on our local bench among our other well-respected jurists, and I know that her strong intellect and unwavering integrity will be a valuable addition to our Court.

*Dangkulu na Si Yu'os ma'ase'* for your consideration of my written testimony in support and endorsement of Attorney Gutierrez.

--  
JESSE N. NASIS, ATTORNEY IV  
GUAM DEPARTMENT OF EDUCATION - LEGAL COUNSEL  
500 Mariner Avenue  
Barrigada, Guam 96913  
[REDACTED]

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GDOE SY 2019-2020

5/19/2020

Gmail - Testimony in Support of Dana Gutierrez nomination for judge

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CAMACHO  
CALVO  
LAW GROUP LLC

March 30, 2020

VIA EMAIL (SENATORTERLAJEGUAM@GMAIL.COM)

Honorable Therese Terlaje  
Chair, Committee on Health, Tourism, Historic Preservation, Land and Justice  
35<sup>th</sup> Guam Legislature  
Guam Congress Building, 163 Chalan Santo Papa  
Hagatna, Guam 96910

Re: Written Testimony in Support of the Confirmation of Dana A. Gutierrez to the  
Position of Judge, Superior Court of Guam

Dear Senator Terlaje:


I would like to provide this written testament of my support for the confirmation of Dana A. Gutierrez to the position of Judge, Superior Court of Guam.

My first encounter with Ms. Gutierrez was when I interviewed her for an associate position at my former law firm, Carlsmith Ball LLP. I did not have any reservations about hiring her back then because she was intelligent, ethical, thoughtful, analytical, organized, mature and humble. We worked together on many different types of project and cases. While at Carlsmith, she focused her practice in the area of labor and employment law. When she left Carlsmith to pursue other career opportunities, she continued practicing in this area and today is highly regarded in the legal and business community for her expertise in this area.

I believe that Dana has the moral compass, integrity and experience that will serve her well as a judge in the Superior Court of Guam. She has proven herself in our firm and beyond and I am honored to support her for confirmation.

Sincerely,

*Sinforoso M. Tolentino*  
SINFOROSO M. TOLENTINO



May 20, 2020

Senator Therese M. Terlaje, Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 96910

RE: Written testimony in support of Dana A. Gutierrez to the position of Judge, Superior Court of Guam

Hafa Adai Madam Chairwoman Theresa M. Terlaje and Members of the Committee.

My name is Rose Ayuyu Morales, I was the former SHRM Guam Chapter President of the SHRM Guam Chapter in 2016, 2017, and 2018 and former VP, Human Resources, GTA from 2012 to 2020, and currently the Field Services Director for SHRM National based in San Antonio, Texas. I write this letter in support of Dana A. Gutierrez for the position of Judge, Superior Court of Guam.

I moved back to Guam after being away for a long time in late 2012 and quickly found a way to give back to the island of Guam by joining the non-profit organization called the SHRM (Society for Human Resource Management) Guam Chapter. It was there that I first met Ms. Gutierrez, who was voted by the members of SHRM Guam to be the VP, Legislative Affairs. In this capacity, Ms. Gutierrez was responsible for ensuring that she was the voice of SHRM Guam members by providing interpretation of legal and legislative updates that could or would have an impact on all things work.

Ms. Gutierrez was the VP, Legislative of Affairs with SHRM Guam Chapter from January 2015 to December 31, 2019. She served two terms in the role and during her term, Ms. Gutierrez was instrumental in working with senators on bills that have been passed into law on Guam, and that have helped shape the workplace. In her role, Ms. Gutierrez was at the forefront representing SHRM Guam with the following:

- Fair Chances Hiring Process Act with Senator Mary C. Torres
- Guam Family and Medical Leave Act, amendment: Bereavement leave with Senator Regine Biscoe Lee
- Served on the committee to review the Guam Workers Compensation law which has not been updated for over 30 years with Senator Regine Biscoe Lee

Written Testimony for Dana A. Gutierrez



I have found and experienced the passion, fairness and attention to detail that Ms. Gutierrez has when it comes to doing her job both professionally and with the SHRM Guam Chapter. She doesn't settle with status quo and does everything to make sure that she has interpreted the law and/or bills to ensure that everyone understands the impacts and how to move forward in their workplaces.

It is my personal opinion that with Ms. Gutierrez's passion, fairness and attention to detail, she would make a great judge for the island of Guam. I have known her to not make decisions without thoroughly reviewing all the information/facts before she makes any decisions for the best outcome. She is the voice of reason when the Board leaders of SHRM Guam are seeing things differently and provides the guidance and interpretation so the Board comes back together to make the decision for the entire chapter that serves over 200 Guam residents who work for both private and public sector employers that support tens of thousands of employees in the workplace.

In closing, I humbly ask the Committee to move forward and approve the nomination of Ms. Dana A. Gutierrez for the position of Judge with the Superior of Court Guam, she will bring her passion, fairness and great attention to detail in her role as a Judge and in my opinion, will humbly represent the people of Guam to make Guam a better place to live, work and be proud of calling Guam home, because Ms. Gutierrez will make the best decision presented to her in her court in the best interest of the island of Guam.

I humbly thank you, Madam Chairwoman and the members of the committee for taking the time to read my testimony. I appreciate your roles and I am confident that the committee with your guidance, Madam Chairwoman, will make the best the decision for the island of Guam.

Si Yu'os Ma'ase',

Rose Ayuyu Morales, SHRM-CP

May 20, 2020

**VIA EMAIL [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

Honorable Therese M. Terlaje  
SENATOR, 35<sup>TH</sup> GUAM LEGISLATURE  
CHAIRPERSON, COMMITTEE ON HEALTH, TOURISM,  
HISTORIC PRESERVATION, LAND AND JUSTICE  
Guam Congress Building  
163 Chalan Santo Papa  
Hagatna, Guam 96910

**RE: TESTIMONY IN SUPPORT OF THE NOMINATION  
OF DANA A. GUTIERREZ AS A JUDGE OF THE  
SUPERIOR COURT OF GUAM**

Dear Madame Chair,

I am writing to convey my support of my colleague and friend, Dana A. Gutierrez, as the next judge of the Superior Court of Guam.

I have known of Dana for nearly twenty years, mainly as a fellow member of the Guam Bar. However, it was not until Dana joined Calvo Fisher & Jacob in 2016, that I really got to know her and discovered what a fierce advocate, passionate teacher, and well-rounded leader she is. Most importantly, over the last four years I have gained a friend who gives great advice and tells the best stories.

Dana is a fierce advocate because she cares about her clients. Her tireless work ethic demonstrates her commitment to get the job done. She is honest with her clients, gives practical advice and is always mindful of client expectations.

Dana is a passionate teacher because she cares about the law and wants to share it with others. Dana has shared her vast knowledge of employment law with students while a teacher at GCC, with members of the legal and human resources community during her countless presentations, and with her clients when she helps them navigate the web of employment laws and regulations.

Dana is a well-rounded leader because she cares about getting the job done right. Not only does she direct and coordinate, but she is also willing to get in the trenches and get her



CALVO FISHER & JACOB LLP

Senator Therese M. Terlaje  
May 20, 2020  
Page 2

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hands dirty. She is focused and determined and does whatever it takes to ensure that the end product is one that all involved can be proud of.

It takes dedication and hard work to be a great Superior Court judge. I have no doubt that Dana will be an excellent Superior Court judge not only because she is dedicated and hard working but also because she cares about the work she does. I ask that you and your fellow Senators confirm Dana A. Gutierrez as the next judge of the Superior Court of Guam.

Thank you.

Sincerely,

CALVO FISHER & JACOB LLP



Jamalynn Cruz Damian

cc: Committee on Health, Tourism, Historic  
Preservation, Land and Justice  
Senator Sabina Flores Perez, Vice Chairperson  
Senator Kelly G. Marsh (Taitano), Ph.D., Member  
Senator James C. Moylan, Member  
Senator Louise B. Muña, Member  
Vice Speaker Telena Cruz Nelson, Member  
Senator Joe S. San Agustin, Member  
Senator Amanda L. Shelton, Member  
Senator Mary Camacho Torres, Member



THE LAW OFFICES OF  
**IGNACIO CRUZ AGUIGUI**  
A PROFESSIONAL CORPORATION

May 19, 2020

**VIA EMAIL** (senatorterlajeguam@gmail.com)

Hon. Therese M. Terlaje  
Senator and Chairperson  
Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' Trentai Singko Na Liheslaturan Guåhan*  
35th Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

**RE: Confirmation of Attorney Dana A. Gutierrez  
To The Position Of Judge, Guam Superior Court**

Dear Senator Terlaje:

It is with great pleasure that I submit this letter in full support of the nomination of Attorney Dana A. Gutierrez to the position of Judge, Superior Court of Guam. I am currently off-island, and am submitting this written testimony by email in support of her candidacy.

I have known Dana for close to two decades, both as a friend and as a colleague in the practice of law. Dana possesses all of the qualities of an exemplary judge. She is incredibly intelligent, diligent, thorough, and meticulous in her work, and she approaches her cases and responsibilities with such care and dedication. She is open-minded and committed to equality and justice in her professional endeavors. She is an excellent lawyer with the highest standards, ethics, and professional dedication and commitment.

On a personal level, Dana has admirable qualities as well. She is humble and amiable, self- and socially-aware. She treats her friends, colleagues and others with deep respect, compassion, dignity, and fairness. She has the uncommon capacity to understand herself and others, and is a true pleasure to be around.

I am of the firm belief that a good judge must possess what is known as “judicial temperament.” The term “judicial temperament” includes aspects of a person’s character and abilities such as commitment to equal justice under law, freedom from bias, ability to decide issues according to law, courtesy and civility, open-mindedness and compassion. These are extremely important, but sometimes overlooked, qualities that judges must have and must continuously employ in their work. I am 100% confident that Dana possesses all of those qualities. Accordingly, I believe that, as a judge, she will treat those in her courtroom – litigants, jurors, witnesses, and attorneys alike – with due respect, patience, open-mindedness, fairness, compassion, and civility.

Hon. Therese M. Terlaje  
May 19, 2020  
Page 2

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In sum, Dana is an attorney of great intelligence, distinction and accomplishment, and an individual with exceptional personal qualities. Those same qualities and qualifications will serve her well as a judge. I would welcome her very much as an addition to our Superior Court.

I respectfully urge *I Liheslaturan Guåhan* to confirm Attorney Dana A. Gutierrez to the position of Judge, Superior Court of Guam.

Thank you for the opportunity to submit this letter of recommendation in support of Dana. Please feel free to contact me should you have any questions.

*Si Yu'us ma'åse*, best wishes and regards.

Very truly yours,

**THE LAW OFFICES OF IGNACIO CRUZ AGUIGUI  
A PROFESSIONAL CORPORATION**



Ignacio C. Aguigui, Esq.

Ha'ani 20 gi Mâyü 2020  
Sinadora Therese M. Terlaje  
Ge'helo', Kumiten Salut, Binisita, Inadahen Hestorika, Tãno', yan Hostisia  
Mina'trentai Singko na Liheslaturan Guåhan

#### TESTIMOÑU NA SINAPOTTE PARA SI DANA ANN GUTIERREZ

Håfa Adai, Ge'hilo' Sinadora Therese M. Terlaje yan membron i kimiten Salut, Binisita, Inadahen Hestorika, Tãno' yan Hostisia gi i Mina'trentai Singko na Liheslaturan Guåhan.

Gaige yu' guini gi i me'nan-miyu para bai hu fannã'i testimoñu na sinapotte para si Dana Ann Gutierrez ni' inapunta as Maga'håga Lourdes A. Leon Guerrero para i pueston hues gi iya Kotten Supiriåt Guåhan.

Banidosu yan senmagof yu' na bai hu na'huyong este na rikumendasion para en abiba yan pãsa inapreba para este na palao'an ni' gaige lokkue' gi i me'nan-miyu sa' inayek ni' i maga'håga para este na diknidåt puesto tãtkumu hues gi i Ketten Supiriåt Guåhan.

Kãsi trentai singko åños tãtte na tiempo na hu tungo' este na numineha annai ocho grãdu ha' sa' estodiãnte-ku gi iya Eskuelan Talo' Obispo Baumgartner gi iya Sinahãña. Ni' ngai'an na bai hu maleffa ni' este na palao'an sa' gi ayu na tiempo ha na'annok gi iya guåhu i malate'-ña, tomtom-ña, yan unesto-ña. Magåhet, fiet, tunas, klãru, yan dibotu gi i hinanao-ña si Dana Ann sigun gi i kattan inapuntan i maga'håga. Ha tattiyi ha' este na kostumbre hulo' gi eskuelan takhilo', kulehu, yan alos uttemo unibetsedåt annai ha hago' digren Doktoran Hinesga ni' chumilong yan este na puesto ni' ma apunta para i Ketten Supiriåt Guåhan. Put mås, gof måtto gai respetu este na palao'an ya bai hu na'tungo' hamyo na gaige este na destengshon gi i familiã-ña lokkue', desde as tatã-ña yan nanã-ña yan i mañe'lu-ña siha as Roland, Jr., as si Hannah, yan si Sanji. Entre as Dana Ann, estodiãnte-ku lokkue' i dos che'lu-ña as Roland, Jr. gi iya Unibetsedåt Guåhan yan as Hannah gi iya Eskuelan Talo' Obispo Baumgartner ya mamarehu ha' kostumbren-ñiha. Ti manmalingu hit ni' taotao Guåhan ni' este na palao'an as Dana Ann kumu in apreba fata'chong-ña gi i kuåtton manhusga.

In the vernacular, I have known this nominee since thirty-five years ago when she was my student in the eighth grade at Bishop Baumgartner Junior High School in Sinajana. I have never forgotten her because then she showed me her intelligence, common sense, and honesty. In truth, she is diligent, thorough, and dedicated as outlined by the Governor in her reasons for her nomination. She has followed through with these traits on to high school, undergraduate courses, and eventually her achievement of earning her Jurisprudence Doctorate that has now qualified her for consideration to sit on the bench at the Superior Court of Guam. In addition, she is one of the most respectful young people I could speak of, but, I might add, that this is the same distinction that I see with her parents, and her siblings Roland, Jr.,

Hannah, and Sanji. In addition to Dana Ann, I've had the honor of also teaching Roland, Jr. at the University of Guam and Hannah at the same Bishop Baumgartner Junior High School. The people will not lose out on Dana Ann's appointment upon approval to sit on the bench of the court system.

Put fin, ta'lo, senmagof yan umitde yu' na bai hu fannã'i nu este na testimoñu para un gof maolek na hagan Guåhan as si Dana Ann Gutierrez. Put fabot, nã'i gui' nu i kemfi'ãnsan-miyu.

Si Yu'os ma'ãse' yan hu alãra mohon na en fan nina'i ànimu yan hostisia.

Si Peter R. Onedera



Date: MAY 14, 2020

To: 35<sup>TH</sup> GUAM LEGISLATURE - THE COMMITTEE ON JUSTICE

From: SHAUN M.C. MURPHY – DIRECTOR OF HUMAN RESOURCES, SHERATON MAUI

Re: TESTIMONY for DANA A. GUTIERREZ to the position of JUDGE, SUPERIOR COURT OF GUAM

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Senator Therese M. Terlaje, Chairperson and other distinguished committee members, I want to thank you for this opportunity to present my testimony for Dana A. Gutierrez's appointment for Judge, Superior Court Guam.

I ask you to approve this appointment of Dana A. Gutierrez. Dana has been a long-time colleague of mine dating back to her position as legal counsel for the University of Guam to present day of her being a confidant when it comes to employment law, career and life itself. In my experience, Dana's nature has always been straight forward, competent, fair and kind-hearted, which I believe are all great qualities of a judge. She continuously works hard in every situation and wants the best outcome to derive from that.

I most recently worked hand in hand with Dana on the board for the Society of Human Resources Management (SHRM), where she was the VP of Legal and I was the VP of Programs. Dana's expertise in the law, particularly employment law, allowed us to continuously work together to put forth programs for the SHRM monthly briefings and annual conference. We were on the board together for 3 years and put together numerous programs that she had facilitated and she always packed the house with 150-200 participants. The reason for her draw was that people believed and trusted in her, she took the time to educate at the same time being relatable to them and their needs. There was no question of her capability and integrity amongst the employers on Guam, her reputation is impeccable. With my close professional relationship with her, I had to introduce her to my General Manager to have her as our legal counsel at the Westin Guam. Dana was able to prove her knowledge and expertise therefore we hired her (firm) to be our employment legal counsel. During my time with the Westin she did definitely prove to be an asset to me and the company.

As you can see I know Dana both professional and personal and to be honest we have become good friends. The reason for that friendship is that we both believe in the same thing, that we know how to draw the line in the sand between personal and professional. We may hang out socially but when it comes to work, she will not mind giving it to me straight-forward and professionally, that this is work and we don't take things personal. And that is the person you need sitting on that bench because as we all know in Guam, everyone knows everybody but she can separate that, there is no bias just fairness with Dana. I once again urge to move forward with her nomination for the position of Judge, Superior Court of Guam.

Thank you for your attention to my testimony and if you have any additional questions please contact me at [REDACTED]



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Written Testimony in Favor of the nomination of Dana Gutierrez to the position of Judge Superior Court of Guam**

1 message

Donald Calvo <dcalvo@icclawgroup.com>  
To: "senatorterlajeguam@gmail.com" <senatorterlajeguam@gmail.com>

Wed, May 20, 2020 at 9:12 PM

Dear Senator Terlaje,

Apologies that I am sending this email after the May 20, 5pm deadline. I had actually thought we had until the end of the day to provide testimony regarding Dana's nomination for judge for the Superior Court of Guam. Covid 19 has somewhat the concept of time a forgotten one.

I hope that you are able to consider my comments despite its tardiness. If not, I completely understand.

I had the pleasure of working with Dana at the firm Carlsmith Ball, LLP from 2001 until she departed the firm in 2003 to work for the University of Guam. And since then, I have had the pleasure of interacting with Dana on a more personal level as a good friend and colleague of the Bar.

One of the first impressions I had of Dana during our time together at Carlsmith was that she was a hard working and devoted employee of the firm. She was often times one of the last attorneys to leave the office, always looking to produce the best work product she could provide to serve the needs of the firm's clients. She was someone who clearly cared about the firm's clients. She also possessed an acute understanding of the law and the ability to address legal issues with an open mind and consideration of opposing views, abilities which I highly respected in her. I believe her abilities in that regard will translate well as a member of the bench.

As I got to know her as a friend, it was clear that Dana conveyed those same traits of dedication and care to her friends. I know that she will carry those special traits to her role as judge at the Superior Court of Guam. I have no doubt that she will bring reasonableness, open-mindedness and humility to the role of judge should she be confirmed, traits which are so important to the position.

I hope you can consider my support of Dana as judge for the Superior Court of Guam and I am happy to address any questions you may have with regard to my experiences with her as a fellow

5/23/2020

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lawyer and her character as a person. Should she be confirmed, the Bar would be losing a smart and effective member but in turn the court will be gaining an asset for years to come.

Thank you again for your time and your service to our island.

Regards,

Don Calvo



CHAPTER 3  
SUPREME COURT OF GUAM

- § 3101. Judicial Power.
- § 3102. Status of Supreme Court of Guam.
- § 3103. Supreme Court; Composition.
- § 3104. Internal Organization of the Supreme Court.
- § 3105. Jurisdiction of Superior Court.
- § 3106. Compensation.
- § 3106.1. Annual Adjustment of Judges' Compensation.
- § 3106.2. One Time Adjustment of Judges' Compensation.
- § 3107. Jurisdiction of the Supreme Court.
- § 3108. Appealable Judgments and Orders.
- § 3109. Nomination, Appointment, Eligibility, and Tenure of Justice and Judges.
- § 3110. Annual Address. [Repealed]
- § 3111. Pending Appeals.
- § 3112. Office of Public Guardian. Office of Public Guardian; Establishment; Appointment.

**§ 3101. Judicial Power.**

The judicial power of Guam shall be vested in a Supreme Court and a court of general jurisdiction designated the Superior Court.

**SOURCE:** New to P.L. 21-147. See Organic Act (48 U.S.C.A.) § 1424-1.

**§ 3102. Status of Supreme Court of Guam.**

The Supreme Court of Guam shall be the highest court of Guam.

**SOURCE:** Not in original proposal. Added to later bills to make clear the status of the Supreme Court both with respect to the District Court, now that it is divested of all direct local appellate jurisdiction and to the status of attorneys before the Bar of Guam and other states. Often an attorney must be "admitted to practice before the highest court of" a jurisdiction in order to qualify for admission elsewhere or for employment.

**§ 3103. Supreme Court; Composition.**

(a) The Supreme Court of Guam is established pursuant to 22A of the Organic Act of Guam and has such original and appellate jurisdiction as is prescribed by the Organic Act of Guam and by this Title. The Supreme Court shall consist of three (3) full-time Justices who shall be appointed by *I Maga'lahen Guåhan*, the Governor of Guam, subject to the advice and consent of *I Liheslatura*. Two (2) of the full-time Justices shall be Associate

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Justices and one (1) shall be Chief Justice, who shall be selected as provided herein.

(b) In addition, *I Maga'lahen Guåhan* [the Governor] may appoint any Federal Judge or any Judge, retired Judge or retired Justice of a court of record in the Commonwealth of the Northern Mariana Islands, the Republic of Palau or the Federated States of Micronesia to sit as an acting Associate Justice. Such appointees shall be referred to as Designated Justices of the Supreme Court of Guam.

To be appointed, the individual shall have practiced law, or sat as a Judge, for a total of at least ten (10) years, be a graduate of a law school accredited by the American Bar Association, and, except for residency requirements and practice requirements on Guam, meet all other qualifications for a Justice. An appointment as a Designated Justice shall be for four (4) years and shall expire at the end of such period, unless the Designated Justice is reappointed by *I Maga'lahen Guåhan* [the Governor]. All such appointments are subject to the advice and consent of *I Liheslaturan Guåhan* [Guam Legislature], and a Designated Justice may not sit until so confirmed.

The Designated Justices shall sit as assigned by the Chief Justice, and while sitting shall have all the powers of an Associate Justice, and shall be paid the same as a part-time Justice, unless some other arrangement has been made by the Chief Justice with the court from which the Designated Justice comes. Designated Justices are entitled to a per diem allowance when traveling away from home on official business for Guam at the rates set for other Associate Justices of Guam.

(c) The term Justice as used in this Title refers to all full-time and part-time Justices of the Supreme Court.

(d) [Repealed by P.L. 27-31:6]

(e) The term designated justice refers to a Judge or Justice who is qualified by this Title to sit.

(f) A Superior Court Judge who is elevated to the Supreme Court of Guam, may sit as a designated Judge of the Superior Court at the direction of the Chief Justice as requested by the Presiding Judge of the Superior Court for the purpose of hearing matters, which were pending before the Justice, immediately prior to his or her elevation from the Superior Court to the Supreme Court.

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(g) [Repealed by P.L. 27-31:6.]

(h) The first Chief Justice shall be selected by the Governor of Guam from among his confirmed appointees for full-time Justices, to serve as Chief Justice for a three- year term. The selection shall be made and shall be submitted to the Speaker of the Legislature. The first Chief Justice shall continue to serve as a Justice of the Supreme Court after his or her tenure as first Chief Justice is complete.

(i) Thereafter, the Chief Justice shall be selected from among the full-time Justices by a majority of all the Justices of the Supreme Court sitting en banc by secret ballot, to serve a three (3) year term commencing at the end of the term of the preceding Chief Justice and continuing until 10:00 o'clock AM on the third Tuesday of January three (3) years hence.

(j) No Justice may succeed himself or herself as Chief Justice.

(k) When a Chief Justice completes his or her term as Chief Justice, he or she shall continue to sit as a full-time Justice of the Supreme Court, until his or her term as Justice expires.

(l) In the event of the absence or disqualification of the Chief Justice, the senior full-time Associate Justice, who is the Justice with the longest years of service in the Supreme Court of Guam, shall act as Chief Justice.

(m) In the event of a disqualification, conflict, or recusal, of the Chief Justice in a given matter, the senior full-time Associate Justice shall act as Chief Justice as to that matter in making assignments of Justices and in other procedural matters. If no Justice is available, then one (1) designated Justice shall act as Chief Justice, in order of seniority.

(n) Part-time Justices may practice law or do other work, but may not work for, nor represent the government of Guam nor any autonomous agency thereof.

(o) In the event that a permanent vacancy occurs in the position of Chief Justice, the remaining Justices shall elect one (1) of their number to fill the unexpired term of the previous Chief Justice. In the event that the remaining term is less than two (2) years, the new Chief Justice may be re-elected notwithstanding paragraph (j) of this section.

**SOURCE:** Completely new composition of the Supreme Court in P.L. 21-147. Subsection (b) amended by P.L. 26-89:4. Subsections (a), (e), (f), (l) and (m) amended by P.L. 27-31:5 as part of the Court unification process. Subsections (d) and (g) repealed by P.L. 27-31:6.

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**§ 3104. Internal Organization of the Supreme Court.**

(a) In hearings and determining the merits of cases before it, the Supreme Court shall sit in a three-Justice panel.

(b) Decisions Concerning Procedural Matters. As provided by the Court's Rules, the Supreme Court or any other court with appellate jurisdiction may appropriately delegate to a Justice or Judge or to a panel of the Court the authority to determine procedural matters incident to an appeal and other matters requiring determination pending decision on the merits.

1985 SOURCE: CCP § 61, part of § 62, modified to reflect Supreme Court and new structure of this Title. Subsection (a) amended by P.L. 27-31:7.

**§ 3105. Jurisdiction of Superior Court.**

The Superior Court shall have original jurisdiction over all causes of action, and, except for those causes exclusively vested in the Supreme Court, may have appellate jurisdiction as may be provided by the Legislature.

**§ 3106. Compensation.**

Until a specific salary is set for the Justices by another statute, the annual salary of the Chief Justice shall be Three Thousand Dollars (\$3,000) higher than the annual salary of the Presiding Judge of the Superior Court, and the annual salary of each of the full-time Associate Justices shall be Two Thousand Dollars (\$2,000) less than the annual salary of the Chief Justice.

The hourly salary of a Justice pro tempore shall be the same as the hourly salary of a full-time Associate Justice; provided, that:

(i) The total annual amount of salary may not exceed the annual salary of a full-time Justice;

(ii) No Justice pro tempore may be paid for more than forty (40) hours per week; and

(iii) No Justice pro tempore may be paid for more than eight (8) hours per day.

SOURCE: Amended by P.L. 27-31:8.

**§ 3106.1. Annual Adjustment of Judges' Compensation.**

(a) Annually, prior to October 1, the Judicial Council may, with reference to Title 7 GCA, Chapter 4, § 4101 (e), adjust the annual compensation of the Judges of the Superior Court, including the Presiding Judge and the Justices of the Supreme Court, for the next fiscal year by an

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amount not in excess of four percent (4%) more than the previous fiscal year's annual rate of compensation.

(b) Funding requirements for any adjustment approved by the Judicial Council should be contained within its approved fiscal year budget, provided, however, that if the salary adjustments are not directly cited in the budget, then any funding requirements shall be absorbed from its approved fiscal year budget.

(c) Funding for a salary increase should be included in the Judicial Council's annual budget request submitted to *I Liheslaturan Guahan*.

(d) The annual adjustment of the judicial salaries affected pursuant to this § 3106.1 shall take effect and be implemented at the beginning of the subsequent fiscal year following approval by the Judicial Council.

**SOURCE:** Added by P.L. 28-137:4 (July 11, 2006). Per section 6 of P.L. 28-137, the effective date of this section is upon enactment of rules, under 7 GCA § 4101(e), by the Supreme Court of Guam. Per the sunset provision of section 7 of P.L. 28-137, this section shall become void and of no effect on October 1, 2010. Amended by P.L. 30-061:1 (Nov. 25, 2009).

**NOTE:** P.L. 28-137:10 (July 11, 2006) provides: "[t]he initial implementation of the salary adjustment procedure provided by Title 7 G.C.A., Division 1, Chapter 3, § 3106.1 as enacted by Section 4 may be accomplished by the Judicial Council prior to October 1, 2006, instead of May 1, 2006, if the Supreme Court has complied with Title 7 G.C.A., Chapter 4, § 4101(e) as added by Section 1."

**§ 3106.2. One Time Adjustment of Judges' Compensation.**

(a) In addition to the increase in compensation provided by enactment of 7 GCA § 3106.1, the annual rate of compensation of judges of the Superior Court shall be adjusted as follows:

(1) the annual rate of compensation of judges, except the Presiding Judge, shall increase by Four Thousand Dollars (\$4,000).

(2) the annual rate of compensation of the Presiding Judge shall be set in accordance with Title 7 G.C.A., Chapter 3 §3106.1(b).

(b) The salaries of any public officials that were previously based on the salary of the Presiding Judge or other judges of the Superior Court shall not be affected by the enactment hereof and the salaries of said public officials shall not change unless changed by law.

**SOURCE:** Added as an uncodified, permanent law by P.L. 28-137:5 (July 11, 2006) and codified by the Compiler as § 3106.2. Per P.L. 28-137:6, this section "shall take

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effect upon the selection of the Presiding Judge pursuant to Title 4 GCA, Chapter 4, § 4101(a).”

**NOTE:** P.L. 28-137:9 provides: “[t]he enactment hereof shall not affect the salary of the Presiding Judge until Section 5 [§ 3106.2] is effective.

**§ 3107. Jurisdiction of the Supreme Court.**

(a) **Jurisdiction.** The Supreme Court shall have authority to review all justiciable controversies and proceedings, regardless of subject matter or amount involved.

(b) **Additional Authority.** Its authority also includes jurisdiction of original proceedings for mandamus, prohibition, injunction, and similar remedies to protect its appellate jurisdiction. The Supreme Court shall have jurisdiction of all appeals arising from judgments, final decrees, or final orders of the Superior Court in criminal cases and in civil cases and proceedings. The Supreme Court has original and appellate jurisdiction over attorney disciplinary matters including but not limited to admissions, qualifications, and standards of practice; and supervisory jurisdiction over all inferior courts in Guam and may make and promulgate rules governing the practice and procedure in the courts. This does not include administrative authority otherwise specifically prescribed in § 5102 of this Act.

**1985 SOURCE:** CCP § 62, as amended by P.L. 12-85 and P.L. 13-187; and modified. Subsection (b) repealed and reenacted by P.L. 24-139:29. Subsection (b) amended by P.L. 27-31:9.

**COURT DECISIONS:** The Supreme Court, in *Pangelinan v. Gutierrez*, 2000 Guam 11 (2000); affirmed by the Ninth Circuit as 276 F.3d 534 (1/10/2002), held P.L. 24-139 not to have existed at all as a public law because it was “pocket vetoed” by the Governor. Therefore, this section reverts to the way it read upon its original enactment as there were no amendments prior to or since P.L. 24-139. The main difference is to give force to the supervisory powers of the Supreme Court and to reinstate an obsolete reference to appellate power over attorney discipline. Since the latter power was given, 7 GCA § 9101 and § 9104 have provided for attorney discipline to be taken over fully by the Supreme Court.

**1985 COMMENT:** This Section gives to the Supreme Court, as permitted by the Omnibus Territories Act of 1984, the appellate power over the Superior Court. Since other laws, including 8 GCA Ch 130, Title 15 GCA and sections in this Title all provide for appeals from specific non-final judgments, orders, etc., the Law Revision Commission believed that repetition here of the local of the specific laws on appeals was unnecessary and could cause trouble if the other laws were to be amended to include new areas of appeal and this section forgotten.

**§ 3108. Appealable Judgments and Orders.**

(a) Final Judgment. Appellate review to the Supreme Court shall be available only upon the rendition of final judgment in the Superior Court from which appeal or application for review is taken.

(b) Interlocutory review. Orders other than final judgments shall be available to immediate appellate review as provided by law and in other cases only at the discretion of the Supreme Court where it determines that resolution of the questions of law on which the order is based will:

(1) Materially advance the termination of the litigation or clarify further proceedings therein;

(2) Protect a party from substantial and irreparable injury; or

(3) Clarify issues of general importance in the administration of justice.

(c) Concurrence. (1) Quorum and determination of a cause. A majority of the number of Justices authorized to constitute a panel as provided by the Rules of the Supreme Court shall constitute a quorum for the purposes of hearing and deciding an appeal or a matter of original jurisdiction. A decision shall be determined by a majority vote of a panel. In the event that a panel is evenly divided on an appeal, the decision appealed from is sustained.

(2) Actions by Chief Justice alone; writs by individual Justices. The Chief Justice alone, or an Associate Justice sitting in his or her place, may make any appropriate order with respect to an appeal or dismiss an appeal for want of jurisdiction or failure to take or prosecute an appeal in accordance with applicable law or rules of procedure. Each of the Justices shall have the power to issue writs of habeas corpus upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or herself or before the Supreme Court or before the Superior Court or before any Judge thereof on behalf of any person held in custody.

**1985 SOURCE:** CCP § 63, as amended by P.L. 12-85. Subsection (b) -- § 134 CCP. Subsection (c) -- CCP § 165 (before enactment of P.L. 12-85), modified. Second paragraph of CCP § 62.

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**§ 3109. Nomination, Appointment, Eligibility and Tenure of Justices and Judges.**

(a) *I Maga'lahaen Guåhan* [The Governor of Guam], with the advice and consent of *I Liheslaturan Guåhan* [the Legislature], shall appoint a qualified person to each of the positions of Justice created by this Title; and subject to the advice and consent of *I Liheslaturan Guåhan*, appoint a qualified person to any vacancy occurring in either the Supreme Court or the Superior Court of Guam, and to any newly created position of Justice or Judge authorized by statute.

The Judicial Council and the Guam Bar Association may each submit a list of qualified nominees for *I Maga'lahaen Guåhan's* [the Governor's] consideration. No sitting Judge of the Superior Court of Guam shall be excluded from the pool of nominees for the Supreme Court of Guam.

(b) [Repealed by P.L. 27-31:10]

(c) The Chief Justice and each Associate Justice of the Supreme Court of Guam shall be a United States citizen, a bona-fide resident of Guam for at least five (5) years and shall have been in the active practice of law on Guam for a period of at least ten (10) years before said nomination. The Presiding Judge and each other Judge of the Superior Court of Guam shall be a United States citizen, a bona-fide resident of Guam for at least five (5) years and shall be in the active practice of law on Guam for a period of seven (7) years before said nomination.

(d) No Justice or Judge shall, during the term of office, engage in the private practice of law. No Justice or Judge shall, during the term of office, run for or hold any other office or position of profit under the United States, any State, Guam or any other political subdivision of the United States.

(e) 'Active practice of law' includes time spent as a Justice or Judge on Guam.

(f) Any sitting Justice or Judge residing in the CNMI and admitted to the practice of law in the CNMI shall be eligible to sit on the Bench on the Supreme Court of Guam or the Superior Court of Guam; provided, that the Justices and Judges from Guam are accorded the same reciprocity by the CNMI.

**SOURCE:** Basic substance from prior law. New qualifications added in P.L. 21-147. Subsection (c) amended by P.L. 22-108:18 (4/1/94) to reduce the number of years required to become a judge. R/R by P.L. 26-89:2. Subsection (b) repealed by P.L. 26-31:10. Subsection (b) repealed by P.L. 27-31:10.



**§ 3110. Annual Address.**

**[Repealed.]**

1985 SOURCE: CCP § 68 (P.L. 12-85). Repealed by P.L. 25-03:IV:16.

**§ 3111. Pending Appeals.**

All actions and proceedings arising under the laws of Guam pending in the District Court, Appellate Division, prior to the effective date of this Chapter shall be prosecuted to final determination in that court as though this Chapter had not been enacted. All appeals pending before the United States Court of Appeals for the Ninth Circuit shall remain in said court until concluded and the District Court of Guam shall retain jurisdiction to enter such orders, decrees, and judgments and conduct any appropriate proceedings in accordance with the ultimate mandate issued on any such pending appeals.

1985 SOURCE: Former CCP § 65 as enacted by P.L. 12-85.

CROSS-REFERENCES: See § 1102 and § 1103(c) of this Title.

**§ 3112. Office of Public Guardian. Office of Public Guardian; Establishment; Appointment.**

There is hereby established within the government of Guam an Office of Public Guardian (Office). The Public Guardian of the Office is the head of the Office. The Chief Justice shall appoint the Public Guardian, who shall serve at the Chief Justice's pleasure.

**(a) Powers and Duties.**

(1) The Public Guardian shall serve as guardian, limited guardian, testamentary guardian or temporary guardian of the person and/or estate of an elderly or mentally incapacitated individual when so appointed by the Family Court under Chapter 1 of Appendix C of Title 7 of the Guam Code Annotated. The Public Guardian shall file a petition for the Public Guardian's own appointment. Petitions for public guardianship may also be filed by any person, agency, or facility responsible for the support or care of individuals who:

(i) are not able to understand or adequately participate in decisions concerning their care; and

(ii) have no relatives or friends willing and able to act as guardian.

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(2) The Public Guardian shall have the same powers and duties as a private guardian.

(3) The Public Guardian shall assist the Court, as the Court may request or direct, in proceedings for the appointment of a guardian of the person and in the supervision of persons, corporations or agencies which have been appointed as guardians of the person.

(4) The Public Guardian shall advise and assist persons, corporations, and agencies which are seeking appointment as a guardian for an incapacitated person. The Public Guardian shall also provide advice, information and guidance to the persons, corporations or agencies who have been appointed as guardian of the person to assist them in the discharge of their duties.

(5) The Public Guardian may offer guidance and counsel, without court appointment as guardian, to those persons who request such assistance or to those on whose behalf it is requested for the purpose of encouraging maximum self-reliance and independence of such persons, and avoiding the need for appointment of a guardian.

(6) The Public Guardian shall develop programs of public education on guardianship and alternatives to guardianship and encourage the development of private guardians able and willing to serve as guardian for the person.

(b) **Public Guardianship Review Board.** Persons, corporations and/or agencies appointed guardians shall be consistently monitored through a Public Guardianship Review Board. Every six (6) months, the Board shall review the care and protection of those persons who are under guardianship by the Office of the Public Guardian. The review Board may review cases before the six (6) month period upon the request of the majority of the members of the Board. This review Board shall consist of eleven (11) members:

(1) one (1) social worker appointed by the Director of the Department of Public Health & Social Services;

(2) one (1) physician appointed by the Administrator of the Guam Memorial Hospital Authority;

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(3) one (1) nurse appointed by the Director of the Department of Public Health and Social Services;

(4) one (1) representative of the Guam Council on Senior Citizens;

(5) one (1) representative from a local nonprofit social service organization providing service to those with developmental disabilities, appointed by the Speaker of *I Liheslaturan Guåhan*;

(6) one (1) attorney appointed by the Guam Bar Association;

(7) one (1) representative from a local nonprofit social service organization providing services to the youth, appointed by the Speaker of *I Liheslaturan Guåhan*; and

(8) three (3) members of the community at large appointed by the Speaker of *I Liheslaturan Guåhan*.

(9) one (1) psychiatrist appointed by the Director of the Guam Behavioral Health and Wellness Center.

(c) **When Not Appointed.** The Public Guardian shall not be appointed if another suitable guardian is available and willing to accept the guardianship appointment, unless the Court finds that the best interests of the ward would be better served by the appointment of the Public Guardian.

(d) **Court Costs.** In any proceeding for appointment of a Public Guardian, the Court may waive any court cost or filing fee.

(e) **Fees of Services; When *Not* Allowed.** The Public Guardian may receive such reasonable fees for services as a public guardian as the Court allows.

(1) No fees shall be allowed which would unreasonably diminish the ward's estates so as to endanger the ward's financial independence, and no fees shall be allowed when the ward's primary source of support derives from public funds.

(2) Any fees received under this Section by the Public Guardian shall be deposited into the *Public Guardian Fund*.

(3) No fees shall accrue to the individual benefit of the Public Guardian.

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(f) Rules. The Public Guardian shall develop rules and regulations in compliance with the Administrative Adjudication Law.

(g) Annual Report. The Public Guardian shall prepare and submit an annual report to the Chief Justice, and render such other reports as the Chief Justice may from time to time require.

(h) Funding. Funding for the Office of the Public Guardian shall be included in the budget of the Judiciary.

(i) Contracts. The Public Guardian may make and enter into contracts, and generally do all such things as in the Public Guardian's judgment may be necessary, proper and expedient in accomplishing the Public Guardian's duties.

(j) Volunteers Authorized. The Public Guardian is authorized to solicit and accept services of individuals and organizations on a voluntary basis in its programs in a carefully planned and supervised manner.

(k) Withholding Consent to Waiver of Sovereign Immunity. Notwithstanding anything in Guam law to the contrary, in accordance with § 1421a of the Organic Act of Guam, *I Liheslaturan Guåhan* therein declines to waive sovereign immunity as to the Office of the Public Guardian and the Supreme Court of Guam for any tort arising out of or committed under the voluntary program as set out in 7 GCA § 3112 (j).

(l) Solicitation of Money Permitted. The office of the Public Guardian may solicit and accept voluntary charitable monetary donations and may apply for and accept public or private grants it may be eligible to receive. All expenditures for solicitation of or application for such donations or grants shall be prudent and reasonable.

(m) Fund Created. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the 'Public Guardian Fund' ('Fund'). The Fund shall not be commingled with any other fund and shall be deposited into a separate account. All fees, charitable monetary donations, and public and private grants collected pursuant to this § 3112 shall be deposited into the Fund and it shall be administered by the Public Guardian. The Fund shall be used for the purpose of the administration and operation of the Office of the Public Guardian. The Public Guardian shall make an annual report to

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the Chief Justice of the Supreme Court of Guam and *I Liheslaturan Guåhan* of the condition of, and activity within, the Fund.

**SOURCE:** Added by P.L. 25-103:2. Subsections (b)(2) and (b)(4) amended by P.L. 26-6:1 and 2. Subsection (b)(9) added by P.L. 26-64:3. Subsection (e)(2) amended by P.L. 26-112:6. Subsection (j) through (m) added by P.L. 26-112:2-5.

**2013 NOTE:** Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, and all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center.

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**GUAM RULES FOR JUDICIAL  
DISCIPLINARY ENFORCEMENT**

(Amended pursuant to Promulgation Order No. 06-002-004 (Dec. 28, 2012))

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Terminology.

- Rule 1. Disciplinary Authority.
- Rule 2.1. The Committee on Judicial Discipline.
- Rule 2.2. The Special Court.
- Rule 3.1. Organization and Authority of the Committee.
- Rule 3.2. Organization and Authority of the Special Court.
- Rule 4. Disciplinary Counsel.
- Rule 5. Commission Counsel.
- Rule 6. Grounds for Discipline; Sanctions Imposed; Deferred Discipline.
- Rule 7. Proof.
- Rule 8. Civil Rules Applicable.
- Rule 9. Right to Counsel.
- Rule 10. *Ex Parte* Contacts.
- Rule 11. Confidentiality.
- Rule 12. Immunity from Civil Suits.
- Rule 13. Service.
- Rule 14. Subpoena Power.
- Rule 15. Interim Suspension.
- Rule 16. Notification to Complainant.
- Rule 17. Screening and Investigation.
- Rule 18. Use of Allegations from Dismissed Cases.
- Rule 19.1 Formal Charges.
- Rule 19.2. Method of Filing
- Rule 20. Answer.
- Rule 21. Failure to Answer/Failure to Appear.
- Rule 22. Discovery.
- Rule 23. Discipline by Consent.
- Rule 24. Hearing.
- Rule 25. Review by Supreme Court of Guam.
- Rule 26. Complaint against a Member of the Supreme Court of Guam.
- Rule 27. Cases Involving Allegations of Mental or Physical Incapacity.

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**TERMINOLOGY**

To promote effective disciplinary enforcement in Guam, the terminology set forth below shall be used.

**Commission Counsel:** the lawyer drafting reports, providing legal advice to the judicial disciplinary authority and performing other duties assigned by the judicial disciplinary authority. *See* Rule 5.

**Complaint:** information in any form from any source received by the Committee on Judicial Discipline that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated. If there is no written complaint from another person, disciplinary counsel's written statement of the allegations constitutes the complaint.

**Deferred Discipline Agreement:** a confidential agreement between the judge and the Committee on Judicial Discipline for the judge to undergo treatment, participate in education programs or take other corrective action. It is only available as a response to misconduct that is minor and can be addressed through treatment or a rehabilitation program. A deferred discipline agreement can only be entered into prior to the filing and service of formal charges.

**Disciplinary Counsel:** the lawyer in charge of screening and investigating complaints, prosecuting formal charges and performing other duties assigned by the Committee on Judicial Discipline or the Special Court. *See* Rule 4.

**Formal Charges:** the document that charges the judge with specific acts of misconduct or with a specific incapacity.

**Special Court:** the adjudicatory body of the judicial disciplinary system appointed by the Supreme Court of Guam that conducts hearings on formal charges. *See* Rule 3.2.

**Hearing:** the public proceeding at which the issues of law and fact raised by the formal charges and answer are tried. *See* Rule 24.

**Incapacity:** a mental or physical condition that adversely affects a judge's ability to perform judicial functions. Incapacity is distinguished



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from a disability that does not adversely affect a judge's performance of judicial functions.

**Incapacity Inactive Status:** non-disciplinary involuntary retirement or removal of a judge from judicial office, with or without pay or retirement benefits, because of mental or physical inability to perform judicial functions.

**Interim Suspension:** temporary removal from office pending a final determination in any proceeding under these rules. *See Rule 15.*

**Investigation:** an inquiry into allegations of misconduct, including a search for and examination of evidence concerning the allegations, divided into two stages: a preliminary investigation conducted by disciplinary counsel after the receipt of a complaint and a full investigation conducted after approval by the Committee on Judicial Discipline. *See Rule 17.*

**Committee on Judicial Discipline:** the investigatory body of the judicial disciplinary system that determines whether full investigations will be conducted and whether formal charges will be filed. *See Rule 3.1.*

**Judge:** anyone, whether or not a lawyer, who is an officer of a judicial system, and who is eligible to perform judicial functions, including an officer such as a magistrate, court commissioner, special master or referee, is a judge within the meaning of these Rules. A justice of the Supreme Court of Guam is a judge within the meaning of these Rules.

**Misconduct:** any conduct by a judge constituting grounds for discipline. *See Rule 6(A).*

**Private Admonition:** a non-public sanction imposed on a judge by Committee on Judicial Discipline with the consent of the judge. *See Rule 6(B)(6).* A private admonition cannot be imposed after the filing and service of formal charges. Only in cases of minor misconduct, when there is little or no injury to the public, the legal system or the profession, should a private admonition be imposed.

**Proceedings:** all steps in the discipline and incapacity system set forth in these rules.

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**Public Members:** members of the Committee on Judicial Discipline and the Special Court who are neither lawyers nor judges.

**Public Reprimand:** a reprimand by the Supreme Court of Guam in the form of a written decision which shall be imposed in person or served upon the respondent by certified mail.

**Reasonable Cause:** a reasonable ground for belief in the existence of facts warranting the filing of formal charges for discipline or a petition for transfer to incapacity inactive status.

**Record:** all documents filed in the case beginning with the formal charges. The record includes a transcript of the hearing on the formal charges only if a transcript is requested by the respondent, disciplinary counsel or a member of the Special Court, Committee on Judicial Discipline or the Supreme Court of Guam.

**Respondent:** a judge or former judge against whom formal charges have been filed.

**Screening:** examination of a complaint or other information coming to the attention of disciplinary counsel to determine whether the Committee on Judicial Discipline has jurisdiction. *See* Rule 17.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 1. DISCIPLINARY AUTHORITY.**

The disciplinary authority of the Committee on Judicial Discipline and the Special Court extends to every judge.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 2.1. THE COMMITTEE ON JUDICIAL DISCIPLINE.**

(A) Established. There is a special committee of the Guam Judicial Council called the Committee on Judicial Discipline.

(B) Purpose. The Committee on Judicial Discipline shall administer the investigatory function of the judicial discipline and incapacity system.

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(C) Jurisdiction.

(1) Judges. The Committee on Judicial Discipline has jurisdiction over judges regarding allegations that misconduct occurred during service as a judge and regarding allegations of incapacity during service as a judge.

(2) Former Judges. The Committee on Judicial Discipline has continuing jurisdiction over former judges regarding allegations that misconduct occurred during service as a judge if a complaint is made within one year following service as a judge.

(3) The lawyer disciplinary authority shall have exclusive jurisdiction over judges regarding allegations that misconduct occurred before service as a judge. The lawyer disciplinary authority shall have exclusive jurisdiction over former judges regarding allegations that misconduct occurred following service as a judge.

(D) Appointment of Members. The Committee on Judicial Discipline shall have 6 members who shall be appointed by the Guam Judicial Council. Two members shall be current or former judges of the Superior Court of Guam or the Superior Court or Supreme Court of the CNMI, current or former judges or justices of the federal courts, or former justices of the Supreme Court of Guam; 2 members shall be lawyers who are residents of Guam and admitted to practice in any court of Guam and of good standing, residents of Guam who are inactive members of the Guam bar in good standing, or lawyers who are residents of the CNMI and admitted to practice in any court of the CNMI and of good standing; and 2 members who are residents of Guam and who are neither lawyers nor judges shall be public members.

(E) Terms. Members of the Committee on Judicial Discipline shall serve for a term of 4 years and shall be eligible for reappointment. Initial appointments shall be made so that the terms of one member in each of the three categories shall expire every 2 years. Members may continue to serve, notwithstanding the technical expiration of a term, until such time as they are reappointed or a successor is appointed. The members of the Committee on Judicial Discipline shall not be subject to removal except for cause. Three successive unexcused absences shall be deemed cause for removal. Removal shall be by the Guam Judicial Council.

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(F) Vacancies. A vacancy shall occur when a member of the Committee on Judicial Discipline ceases to be eligible to represent the category from which the member was appointed, or becomes unable to serve for any reason. An appointment to fill a vacancy for the duration of an unexpired term shall be made by the Guam Judicial Council. If a vacancy is not filled by the Guam Judicial Council within 60 days from the date on which the Committee on Judicial Discipline notified the Guam Judicial Council of the vacancy, the Chief Justice of Guam shall appoint from the category to be represented a member within the next ten 10 days. That member will serve for the duration of the unexpired term.

(G) Funding. The Committee on Judicial Discipline shall prepare its own budget and submit it to the Guam Judicial Council.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Subsection (D) amended by Prom. Order No. 06-002-002 (Apr. 13, 2007), Prom. Order No. 06-002-03 (Dec. 23, 2011). Subsection (E) amended by Prom. Order No. 06-002-03 (Dec. 23, 2011).

**RULE 2.2. THE SPECIAL COURT.**

(A) Established. There is a court impaneled and constituted by the Supreme Court of Guam called the Special Court.

(B) Purpose. The Special Court shall administer the adjudicatory function of the judicial discipline and incapacity system.

(C) Jurisdiction.

(1) Judges. The Special Court has jurisdiction over judges regarding allegations that misconduct occurred during service as a judge and regarding allegations of incapacity during service as a judge.

(2) Former Judges. The Special Court has continuing jurisdiction over former judges regarding allegations that misconduct occurred during service as a judge if a complaint is made within one year following service as a judge.

(D) Appointment of Members. The Special Court shall have 3 members who shall be appointed by the Chief Justice of Guam. One member shall be current or former judge of the Superior Court of Guam or the Superior Court or Supreme Court of the CNMI, a current or

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Former judge or justice of the federal courts, or a former justice of the Supreme Court of Guam; 1 member shall be a resident of Guam who is a lawyer admitted to practice in any court of Guam and of good standing, a resident of Guam who is an inactive member of the Guam bar in good standing or a lawyer who is a resident of the CNMI and admitted to practice in any court of the CNMI and in good standing; and 1 member who is neither a lawyer nor a judge who shall be a public member.

(E) Terms. Members of the Special Court shall serve for a term of 4 years and shall be eligible for reappointment. Members may continue to serve, notwithstanding the technical expiration of a term, until such time as they are reappointed or a successor is appointed. The members of the Special Court shall not be subject to removal except for cause. Three successive unexcused absences shall be deemed cause for removal. Removal shall be by the Guam Judicial Council.

(F) Vacancies. A vacancy shall occur when a member of the Special Court becomes unable to serve for any reason. An appointment to fill a vacancy for the duration of an unexpired term shall be made by the Chief Justice of Guam. If a vacancy is not filled by the Chief Justice of Guam within 60 days from the date on which the Special Court notified the Chief Justice of the vacancy, the Guam Judicial Council shall appoint from the category to be represented a member within the next 10 days. That member will serve for the duration of the unexpired term.

SOURCE: Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Subsection (D) amended by Prom. Order No. 06-002-002 (Apr. 13, 2007), Prom. Order No. 06-002-03 (Dec. 23, 2011). Subsection (E) amended by Prom. Order No. 06-002-03 (Dec. 23, 2011).

**RULE 3.1. ORGANIZATION AND AUTHORITY OF THE COMMITTEE.**

(A) Meetings. The Committee on Judicial Discipline shall meet periodically as determined by its members to consider administrative matters. Meetings of the Committee on Judicial Discipline other than periodic meetings may be called by the chair upon the chair's own motion and shall be called by the chair upon the written request of three members of the Committee on Judicial Discipline.

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(B) **Officers.** The Committee on Judicial Discipline shall elect one of its members to serve as chair and another to serve as vice-chair for such terms as the Committee on Judicial Discipline shall determine. The vice-chair shall perform the duties of the chair whenever the chair is absent or unable to act.

(C) **Quorum.** Four members of the full Committee on Judicial Discipline shall constitute a quorum for the transaction of business. Alternate members should be appointed where necessary to fulfill the quorum requirements. Alternate member(s) shall be appointed by the Guam Judicial Council.

(D) **Expenses.** Members shall be reimbursed for reasonable and necessary expenses incurred pursuant to their duties.

(E) **Powers and Duties.**

(1) The Committee on Judicial Discipline, with the concurrence of the Special Court, shall have the duty and authority to:

(a) adopt its own rules of procedure for discipline and incapacity proceedings subject to the approval of the Supreme Court of Guam of Guam; and

(b) propose amendments to the code of judicial conduct and these Rules for Judicial Disciplinary Enforcement to the Supreme Court of Guam.

(2) In addition to the duties assigned to disciplinary counsel and commission counsel in Rules 4 and 5, the Committee on Judicial Discipline may delegate to either the disciplinary counsel or commission counsel the duty and authority to:

(a) maintain the Committee on Judicial Discipline's records;

(b) maintain statistics concerning the operation of the Committee on Judicial Discipline and make them available to the Committee and the Supreme Court of Guam;

(c) prepare the commission's budget for its approval and administer the funds;

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(d) notify the appropriate appointing authority of vacancies on the Committee on Judicial Discipline;

(e) prepare an annual report of the Committee on Judicial Discipline's activities for presentation to the Supreme Court of Guam and the public; and

(f) inform the public of the existence and operation of the judicial discipline system, including the Committee on Judicial Discipline's address and telephone number and the disposition of each matter in which public discipline is imposed.

(3) The Committee on Judicial Discipline shall have the duty and authority to:

(a) review the recommendations of disciplinary counsel after preliminary investigation and either authorize a full investigation or dismiss the complaint; and

(b) review the recommendations of disciplinary counsel after full investigation and approve, disapprove or modify the recommendations as provided in Rule 17(D)(2).

(4) The Committee on Judicial Discipline may issue advisory opinions at the request of a judge.

(F) Recusal. A member of the Committee on Judicial Discipline shall recuse himself or herself in any matter in which recusal would be required of a judge under the Code of Judicial Conduct or the laws of Guam.

(G) Complaints against Members of the Committee on Judicial Discipline. If a complaint is filed against a member of the Committee on Judicial Discipline who is a judge subject to the jurisdiction of the Committee, the Committee member against whom the complaint has been filed shall not participate in the investigation or adjudication of the matter.

SOURCE: Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

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**RULE 3.2. ORGANIZATION AND AUTHORITY OF THE SPECIAL COURT.**

(A) Officers. The Special Court shall elect one of its members to serve as chair and another to serve as vice-chair for such terms as the Special Court shall determine.

(B) Quorum. Three members of the Special Court shall constitute a quorum for the transaction of business. Alternate members should be appointed where necessary to fulfill the quorum and category requirements.

(C) Expenses. Members shall be reimbursed for reasonable and necessary expenses incurred pursuant to their duties.

(D) Powers and Duties.

(1) The Special Court, with the concurrence of the Committee on Judicial Discipline, shall have the duty and authority to:

(a) adopt its own rules of procedure for discipline and incapacity proceedings subject to the approval of the Supreme Court of Guam;

(b) propose amendments to the code of judicial conduct and these Rules for Judicial Disciplinary Enforcement to the Supreme Court of Guam;

(2) In addition to the duties assigned to disciplinary counsel and commission counsel in Rules 4 and 5, the Special Court may delegate to either the disciplinary counsel or commission counsel the duty and authority to:

(a) maintain the Special Court's records;

(b) maintain statistics concerning the operation of the Special Court and make them available to the Special Court and the Supreme Court of Guam;

(c) notify the appropriate appointing authority of vacancies on the Special Court;





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the status and disposition of their complaints, make recommendations to the Committee on Judicial Discipline on the disposition of complaints after full investigation, file formal charges when directed to do so by the Committee on Judicial Discipline, prosecute formal charges and file notices of exceptions to the findings, conclusions, recommendations for sanctions or orders of dismissal of the Special Court;

(2) maintain permanent records of the operations of disciplinary counsel's office, including receipt of complaints, screening, investigation and filing of formal charges in judicial discipline and incapacity matters, subject to the requirements of Rule 18;

(3) compile statistics to aid in the administration of the system, including but not limited to a log of all complaints received, investigative files and statistical summaries of docket processing and case dispositions;

(4) prepare disciplinary counsel's budget for submission to the Committee on Judicial Discipline and administer the funds;

(5) supervise other members of disciplinary counsel's staff;

(6) employ private investigators or experts as necessary to investigate and process matters before the Committee on Judicial Discipline, the Special Court, and the Supreme Court of Guam; and

(7) perform other duties at the direction of the Committee on Judicial Discipline and the Special Court.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 5. COMMISSION COUNSEL.**

(A) Appointment. The Special Court may appoint a commission counsel to assist the Special Court in the discharge of its duties.

(B) Powers and Duties. The Special Court may delegate functions to the commission counsel, including but not limited to the duty and authority to:

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(1) advise the Special Court during its deliberations and draft decisions, orders, reports and other documents on behalf of the Special Court;

(2) employ and supervise other staff necessary to the performance of the Special Court's duties; and

(3) perform other duties at the direction of the Special Court.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 6. GROUNDS FOR DISCIPLINE; SANCTIONS IMPOSED; DEFERRED DISCIPLINE.**

(A) Grounds for Discipline. The grounds for discipline are:

(1) any conduct constituting a violation of the 1990 ABA Model Code of Judicial Conduct as amended in 1997, 1999 and 2003, the Guam Rules of Professional Conduct or

(2) a willful violation of a valid order of the Supreme Court of Guam, Committee on Judicial Discipline or the Special Court, in a proceeding under these Rules, a willful failure to appear personally as directed, or a knowing failure to respond to a lawful demand from a disciplinary authority.

(B) Sanctions. These sanctions may be imposed upon a respondent who has committed misconduct:

(1) removal by the Supreme Court of Guam;

(2) suspension by the Supreme Court of Guam;

(3) imposition by the Supreme Court of Guam of limitations on the performance of judicial duties;

(4) imposition of lawyer discipline by the Supreme Court of Guam;

(5) public reprimand by the Supreme Court of Guam;

(6) private admonition by the Committee on Judicial Discipline with the consent of the judge, provided that a private

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admonition may be used in subsequent proceedings as evidence of prior misconduct solely upon the issue of the sanction to be imposed, pursuant to Rule 17(D)(1); and

(7) deferred discipline agreement.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007). Subsection (A)(1) amended by Prom. Order No. 06-002-03 (Dec. 23, 2011).

**RULE 7. PROOF.**

Charges of misconduct and grounds for transfer to and from incapacity inactive status shall be established by clear and convincing evidence. The burden of proof in proceedings seeking transfer from incapacity inactive status is on the judge.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 8. CIVIL RULES APPLICABLE.**

Except as otherwise provided in these Rules, the rules of evidence applicable to non-jury civil proceedings and the rules of civil procedure apply in judicial discipline and incapacity cases.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 9. RIGHT TO COUNSEL.**

The judge shall be entitled to retain counsel and to have the assistance of counsel at every stage of these proceedings.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 10. EX PARTE CONTACTS.**

Members of the Committee on Judicial Discipline, the Special Court, hearing officers and commission counsel shall not engage in *ex parte* communications regarding a case, except that before making a determination to file formal charges in a case pursuant to Rule 17(D)(2),

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members of the Committee on Judicial Discipline may communicate with disciplinary counsel as required to perform their duties in accordance with these Rules.

*SOURCE:* Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 11. CONFIDENTIALITY.**

**(A) Proceedings.**

(1) Before the filing and service of formal charges, all proceedings shall be confidential.

(2) After the filing and service of formal charges, all proceedings shall be public except incapacity proceedings as provided in Rule 27(B).

**(B) Information.**

(1) Before the filing and service of formal charges, all information relating to a complaint that has not been dismissed shall be held confidential by the Committee on Judicial Discipline and disciplinary counsel and their staffs, except that the Committee may disclose information:

(a) when it is determined that there is a need to notify another person to protect that person or to notify a government agency in order to protect the public or the administration of justice; or

(b) upon waiver in writing by the judge.

(3) All information relating to a complaint that has been dismissed without formal charges being filed shall be held confidential by the Committee on Judicial Discipline and disciplinary counsel and their staffs.

(4) Disciplinary counsel's work product, Committee deliberations and records of the Committee's deliberations shall not be disclosed.

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(5) Commission counsel's work product, Special Court deliberations and records of the Special Court's deliberations shall not be disclosed.

(C) Consequences of Disclosure. Any person, including but not limited to any member or staff of the Committee on Judicial Discipline, the Special Court, Commission Counsel or Disciplinary Counsel, the individual making the complaint, and witnesses involved in the matter, who divulges information concerning the proceedings prior to the filing and service of formal charges, or if the investigation discloses that formal charges should not be issued by the Committee on Judicial Discipline, any member or staff or person described above who divulges at any time any information concerning the original charge or divulges the contents or discloses any matter except as permitted by these Rules, may be subject to sanctions, including contempt, at the discretion of the Supreme Court of Guam.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007). Subsection (C) amended by Prom. Order No. 06-002-04 (Dec. 28, 2012).

**RULE 12. IMMUNITY FROM CIVIL SUITS.**

Communications to the Committee on Judicial Discipline, the Special Court, disciplinary counsel, commission counsel, or their staffs relating to misconduct or incapacity and testimony given in the proceedings shall be absolutely privileged, and no civil lawsuit predicated thereon may be instituted against any complainant or witness. Members of the Committee on Judicial Discipline, disciplinary counsel and staff, the Special Court, and commission counsel and staff shall be absolutely immune from civil suit for all conduct in the course of their official duties.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 13. SERVICE.**

Service upon the judge of formal charges in any disciplinary or incapacity proceeding or of notice that a complaint has been received

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shall be made by personal service upon the judge or judge's counsel by any person authorized by the chair of the Committee on Judicial Discipline or by registered or certified mail to the judge's address of record. Delivery of all other papers or notices shall be made in accordance with the Guam Rules of Civil Procedure.

*SOURCE:* Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 14. SUBPOENA POWER.**

(A) Oaths. Oaths and affirmations may be administered by any member of the Committee on Judicial Discipline, disciplinary counsel in matters under full investigation or any other person authorized by law.

(B) Subpoenas for Investigation. After a full investigation is authorized pursuant to Rule 17(B)(3), disciplinary counsel may issue subpoena to compel the attendance of the judge or witnesses and the production of pertinent books, papers and documents for purposes of investigation. The Chairperson of the Committee on Judicial Discipline may issue subpoenas for specific witnesses or documents at the request of a judge under investigation.

(C) Subpoenas for Deposition or Hearing. After formal charges are filed, disciplinary counsel and respondent may issue subpoena to compel the attendance of witnesses and the production of pertinent books, papers and documents at a deposition or hearing held under these rules.

(D) Enforcement of Subpoenas. Upon proper application, the Superior Court of Guam, in a sealed proceeding may enforce the attendance and testimony of any witnesses and the production of any documents subpoenaed.

(E) Quashing Subpoena. Any attack on the validity of a subpoena shall be heard and determined by the Committee on Judicial Discipline or the Special Court before which the matter is pending or by the Supreme Court of Guam wherein enforcement of the subpoena is being sought. Any resulting order is not appealable prior to entry of a final order in the proceeding.

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(F) Witnesses and Fees. Subpoena fees and costs shall be the same as those provided for in proceedings in the Superior Court of Guam.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 15. INTERIM SUSPENSION.**

(A) Criminal Prosecution. Without the necessity of disciplinary action, the Supreme Court of Guam may immediately place a judge on interim suspension, with pay, upon notice of the filing of an indictment, information or complaint in any jurisdiction charging the judge with a "serious crime".

(B) Definition of "Serious Crime." A "serious crime" is: (1) any felony or (2) a lesser crime that reflects adversely on the judge's honesty, trustworthiness or fitness as a judge in other respects; or (3) any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft or an attempt, conspiracy or solicitation of another to commit a "serious crime."

(C) Other Misconduct. Upon receipt of sufficient evidence demonstrating that a judge poses a substantial threat of serious harm to the public or to the administration of justice, the Supreme Court of Guam may suspend the judge, with or without pay, pending a final determination in any proceeding under these Rules.

(D) Motion for Reconsideration. A suspended judge may apply to the Supreme Court of Guam for reconsideration of the order.

(E) Effect on Disciplinary Action. Interim suspension of a judge shall not preclude action by the disciplinary authority on the same conduct that was the basis for the criminal charge. Acquittal, dismissal or conviction of the criminal charge shall not preclude proceedings by the disciplinary authority on the conduct that was the basis for the charge.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).



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**RULE 16. NOTIFICATION TO COMPLAINANT.**

Disciplinary counsel shall provide written acknowledgment of every complaint, if the complainant is known, and notify the complainant in writing of the final disposition of a proceeding under these Rules. Notification in writing shall be mailed within 10 days of the order disposing of the proceeding.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 17. SCREENING AND INVESTIGATION.**

(A) Screening. Disciplinary counsel shall evaluate all information coming to disciplinary counsel's attention by complaint or from other sources that alleges judicial misconduct or incapacity. If the information would not constitute misconduct or incapacity if true, disciplinary counsel shall dismiss the complaint, subject to review by the Committee on Judicial Discipline. If the information raises allegations that would constitute judicial misconduct or incapacity if true, disciplinary counsel shall conduct a preliminary investigation.

(B) Preliminary Investigation.

(1) Disciplinary counsel may conduct interviews and examine evidence to determine whether grounds exist to believe the allegations of complaints, provided that no subpoena shall issue to obtain testimony or evidence until the Committee on Judicial Discipline authorizes a full investigation pursuant to Rule 17(c).

(2) When disciplinary counsel believes there is evidence supporting the allegations against a judge, he or she shall recommend to the Committee on Judicial Discipline that the Committee authorize a full investigation. Disciplinary counsel may recommend a full investigation when there are grounds to believe that evidence supporting the allegations could be obtained by subpoena or further investigation. In all other cases, disciplinary counsel shall recommend that the matter be dismissed.

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(3) The Committee on Judicial Discipline shall review disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation.

(C) Full Investigation.

(1) Within 10 days after the Committee on Judicial Discipline authorizes a full investigation, disciplinary counsel shall give the following notice to the judge:

(a) a specific statement of the allegations being investigated and the canons or rules allegedly violated, with the provision that the investigation can be expanded if appropriate;

(b) the judge's duty to respond pursuant to Rule 17(C)(3);

(c) the judge's opportunity to meet with disciplinary counsel pursuant to Rule 17(C)(4); and

(d) the name of the complainant unless the Committee on Judicial Discipline determines that there is good cause to withhold that information taking into consideration factors, including but not limited to the materiality of the information possessed by the complainant and the position the complainant occupies in relation to the judge.

(2) The Committee on Judicial Discipline may defer the giving of notice but, when notice is deferred, disciplinary counsel must give notice to the judge before making a recommendation as to a disposition.

(3) Disciplinary counsel may request that the judge file a written response within 20 days after service of the notice under Rule 17(C)(1).

(4) Before the Committee on Judicial Discipline determines its disposition of the complaint under Rule 17(D), either disciplinary counsel or the judge may request an appearance before disciplinary counsel to respond to questions. The appearance shall be on the record. If the judge requests an appearance before disciplinary counsel, such request shall be in writing served upon disciplinary

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counsel within thirty days of the judge's filing with disciplinary counsel of their written response to the notice of full investigation pursuant to Rule 17(C)(3), or within thirty days of the deadline for such filing, whichever is later. If disciplinary counsel requests the judge's appearance, disciplinary counsel must give the judge 20 days notice and the testimony shall be sworn.

(5) Disciplinary counsel is authorized to issue subpoenas pursuant to Rule 14(B) once a full investigation has been approved. Disciplinary counsel shall conduct all investigations.

(D) Disposition After Full Investigation.

(1) Upon the conclusion of a full investigation, disciplinary counsel may recommend to the Committee on Judicial Discipline:

- (a) dismissal;
- (b) private admonition or deferred discipline agreement;
- (c) the filing of formal charges;
- (d) the filing of a petition for transfer to incapacity inactive status;
- (e) referral to an appropriate agency; or
- (f) a stay.

(2) The Committee may adopt, reject or modify the recommendations of disciplinary counsel. If the Committee finds a violation pursuant to Rule 6 for which the imposition of discipline is not warranted it may dismiss. If the Committee finds that there is reasonable cause to believe the judge committed misconduct,

(a) it may propose a private admonition or deferred discipline agreement to the respondent and if the respondent consents, it shall admonish the respondent or implement the deferred disciplinary agreement; in addition, it may assess costs against the respondent as a condition of the private admonition or deferred disciplinary agreement;

(b) if the respondent does not consent to the admonishment or the deferred discipline, the investigative

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panel may direct disciplinary counsel either to file formal charges or dismiss the complaint; or

(c) it may direct disciplinary counsel to file formal charges.

(E) Immunity from Criminal Prosecution. Whenever a witness invokes his or her privilege against self-incrimination as a basis for refusing to answer a question or to produce other evidence that may be relevant to a discipline or incapacity proceeding, disciplinary counsel may apply to the appropriate court for a grant of immunity from criminal prosecution and shall give notice of the application to the prosecuting authority. If the court grants the order, the witness may not refuse to comply with the order on the basis of the witness's privilege against self-incrimination, but no testimony or other evidence compelled under such an order shall be used against the witness in any criminal case. The witness may be prosecuted for perjury or contempt committed in answering or failing to answer in accordance with the order.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007). Subsection (C)(4) amended by Prom. Order No. 06-002-03 (Dec. 23, 2011).

**RULE 18. USE OF ALLEGATIONS FROM DISMISSED CASES.**

If a complaint has been dismissed, the allegations made in that complaint shall not be used for any purpose in any judicial or lawyer disciplinary proceeding against the judge. If additional information becomes known to disciplinary counsel regarding a complaint that has been dismissed before the filing of formal charges, the allegations may be reinvestigated with permission of the Committee on Judicial Discipline.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 19.1. FORMAL CHARGES.**

The formal charges shall give fair and adequate notice of the nature of the alleged misconduct or incapacity. Disciplinary counsel shall file the formal charges with the Special Court. Disciplinary counsel shall

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cause a copy of the formal charges to be served upon the respondent or respondent's counsel pursuant to Rule 13 and shall file proof of service with the Special Court.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007). Renumbered by Prom. Order No. 06-002-03 (Dec. 23, 2011) with the addition of Rule 19.2.

**RULE 19.2. METHOD OF FILING.**

The Clerk's Office of the Supreme Court of Guam shall accept all filings on behalf of the Special Court.

**SOURCE:** Added by Prom. Order No. 06-002-03 (Dec. 23, 2011).

**RULE 20. ANSWER.**

(A) Time. The respondent shall file a written answer with the Special Court and serve a copy on disciplinary counsel within 20 days after service of the formal charges, unless the time is extended by the Special Court.

(B) Waiver of Privilege. The raising of a mental or physical condition as a defense constitutes a waiver of medical privilege pursuant to Rule 27(D)(4).

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 21. FAILURE TO ANSWER/FAILURE TO APPEAR.**

(A) Failure to Answer. Failure to answer the formal charges shall constitute an admission of the factual allegations.

(B) Failure to Appear. If the respondent should fail to appear when specifically so ordered by the Special Court or the Supreme Court of Guam, the respondent shall be deemed to have admitted the factual allegations which were to be the subject of such appearance and to have conceded the merits of any motion or recommendations to be considered at such appearance. Absent good cause, the Special Court or Supreme Court shall not continue or delay proceedings because of the respondent's failure to appear.

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(C) Nothing in this Rule shall be construed to relieve disciplinary counsel from the burden of proof or persuasion in establishing a *prima facie* case of misconduct.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 22. DISCOVERY.**

(A) Witnesses. Within 20 days of the filing of an answer, disciplinary counsel and respondent shall exchange the names and addresses of all persons known to have knowledge of the relevant facts. Disciplinary counsel or the respondent may withhold such information only with permission of the Special Court, which can authorize withholding of the information only for good cause shown, taking into consideration the materiality of the information possessed by the person known to have knowledge of the relevant facts and the position such person occupies in relation to the judge. The Special Court's review of the withholding request is to be *in camera*, but disciplinary counsel must advise respondent of the request without disclosing the subject of the request. The Special Court shall set a date not less than thirty [30] days prior to the completion of discovery for the exchange of the names and addresses of all witnesses the parties intend to call at the hearing. Disciplinary counsel and respondent may take depositions only of witnesses to be called at the hearing and other witnesses who are unavailable to testify. Depositions of other persons may be taken only with permission of the Special Court and only for good cause shown.

(B) Other Evidence. Disciplinary counsel and respondent shall exchange:

(1) non-privileged evidence relevant to the formal charges, documents to be presented at the hearing, and witness statements of those who will be called at the hearing; and

(2) other material only upon good cause shown to the Special Court.

(C) Exculpatory Evidence. Disciplinary counsel shall provide respondent with exculpatory evidence relevant to the formal charges.

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(D) Duty of Supplementation. Both parties have a continuing duty to supplement information required to be exchanged under this Rule.

(E) Completion of Discovery. Unless extended by the Special Court for good cause shown, all discovery shall be completed within 60 days of the filing of the answer.

(F) Failure to Disclose. Taking into consideration the reasons for the failure to disclose, the prejudice to the party calling the witness if the witness is not called and the extent to which the opposing party will be prejudiced by the lack of advance disclosure, the Special Court may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness's name and address, or any statements taken from the witness.

(G) Resolution of Disputes. Disputes concerning discovery shall be determined by the Special Court. The decisions of the Special Court concerning discovery may not be appealed before the entry of the final order.

(H) Civil Rules Not Applicable. Proceedings under these Rules are not subject to the Guam Rules of Civil Procedure regarding discovery except those rules relating to depositions and subpoenas.

*SOURCE:* Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 23. DISCIPLINE BY CONSENT.**

(A) Approval. At any time after the filing of formal charges and before final disposition, the respondent may agree with disciplinary counsel that the respondent shall admit to any or all of the formal charges in exchange for a stated sanction. The agreement shall be submitted to the Special Court, which shall either:

- (1) reject the agreement and generally state the reasons therefor; or
- (2) submit the agreement to the Supreme Court of Guam for approval.

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(B) Rejection of Sanction. If the stated sanction is rejected by the Special Court or the Supreme Court, the admission shall be withdrawn and cannot be used against the respondent in any proceedings.

(C) Affidavit of Consent. A respondent who consents to a stated sanction shall sign an affidavit stating that:

- (1) the respondent consents to the sanction;
- (2) the consent is freely and voluntarily rendered;
- (3) there is presently pending a proceeding involving allegations of misconduct; and
- (4) the facts set forth in the affidavit are true.

(D) Order of Discipline. The Special Court shall file the affidavit with the Supreme Court. The affidavit shall remain confidential until it is accepted by the Supreme Court. The Supreme Court shall either reject the agreement generally stating the reasons therefor or enter the order disciplining the respondent. The final order of discipline shall be based upon the formal charges and the conditional admission.

*SOURCE:* Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 24. HEARING.**

(A) Scheduling. Upon receipt of the respondent's answer or upon expiration of the time to answer, the Special Court shall schedule a public hearing and notify disciplinary counsel and respondent of the date, time and place of the hearing.

(B) Hearing Panel. The hearing shall be conducted by the Special Court.

(C) Conduct of Hearing.

- (1) All testimony shall be under oath.
- (2) Disciplinary counsel shall present evidence on formal charges.
- (3) Disciplinary counsel may call the respondent as a witness.



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(4) Both parties shall be permitted to present evidence and produce and cross-examine witnesses.

(5) The hearing shall be recorded verbatim. Whenever a transcript is requested by respondent, disciplinary counsel, a member of the Special Court, or the Supreme Court, a transcript of the hearing or that part of the hearing requested shall be produced promptly and shall be provided to the respondent without cost.

(6) Disciplinary counsel and the respondent may submit proposed findings of fact, conclusions of law, and recommendations for sanction or order of dismissal to the Special Court.

(7) If a hearing officer is used, the findings are to be submitted to the Special Court.

(D) Dismissal or Recommendation for Sanction. The Special Court shall either dismiss the case or recommend a sanction to the Supreme Court of Guam. The Special Court shall decide a matter only upon the concurrence of a majority of its members.

(E) Submission of the Report. Within 30 days after the hearing or after the filing of the transcript if one was requested, the Special Court shall file with the Supreme Court the record of the proceeding and a report setting forth a written summary, proposed findings of fact, conclusions of law, any minority opinions and the order of dismissal or recommendation for sanction. The Special Court shall at the same time serve the report upon the respondent and disciplinary counsel.

(F) Notice of Exceptions. Within 20 days of receipt of the Special Court's report, the respondent and disciplinary counsel may file with the Supreme Court notice of exceptions to the findings, conclusions or recommendations for sanction or order of dismissal of the Special Court and the request for any further transcripts. The failure to file notice of exceptions constitutes acceptance of the findings of fact, conclusions of law and order of dismissal or recommendation for sanction.

(G) Notice to the Guam Bar Ethics Committee. Whenever the Special Court recommends the suspension or removal of a respondent, it shall serve a copy of its report on the Guam Bar Ethics Committee at the same time the report is filed with the Supreme Court. The Guam Bar

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Ethics Committee may file with the Supreme Court recommendations for imposing lawyer disciplinary sanctions on the respondent. Recommendations from the Guam Bar Ethics Committee shall be filed in a brief in accordance with Rule 25(B).

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 25. REVIEW BY SUPREME COURT OF GUAM.**

**(A) Expedited Consideration.**

(1) The Clerk of the Supreme Court shall docket for expedited consideration any case in which the Special Court recommended a sanction or a notice of exceptions was filed.

(2) In cases the Special Court has dismissed to which no exceptions were filed, the dismissal shall be final if the Supreme Court has not ordered a review within 15 days.

**(B) Brief and Supplementary Filings.**

(1) Disciplinary counsel, the respondent and the Guam Bar Ethics Committee, if it is entitled to file pursuant to Rule 24(G), shall file briefs as follows: upon the filing of the record, the Clerk of Court shall issue a briefing schedule granting the excepting party(ies) 30 days to file its opening brief. Opposing party(ies) shall have 20 days to file the opposition brief. The excepting party(ies) shall have 7 days to file any reply.

(2) If the Supreme Court desires an expansion of the record or additional findings, it shall remand the case to the Special Court with appropriate directions, retain jurisdiction and withhold action pending receipt of the additional filing.

(3) The Supreme Court may order additional briefs or oral arguments as to the entire case or specified issues.

**(C) Stay for Further Proceedings.** If during review by the Supreme Court the Special Court receives another complaint against the respondent, the disciplinary counsel shall advise the Supreme Court. The Supreme Court may stay its review pending the Special Court's

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determination of the second complaint. The Supreme Court may impose a single sanction covering all recommendations for discipline from the Special Court against a respondent.

(D) Decision.

(1) The Supreme Court shall file a written decision dismissing the case or imposing a sanction. All decisions issued by the Supreme Court shall be published for the guidance of other judges and for public information.

(2) The Supreme Court may accept, reject or modify in whole or in part the findings and conclusions of the Special Court.

(3) The Supreme Court may assess costs against the respondent if it finds the respondent committed misconduct.

SOURCE: Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 26. COMPLAINT AGAINST A MEMBER OF THE SUPREME COURT OF GUAM.**

(A) Proceedings Generally. A complaint against a member of Supreme Court of Guam shall proceed in the same manner as a complaint against any other judge except as set forth in this Rule.

(B) Special Supreme Court. Upon either a motion by disciplinary counsel or the Supreme Court of Guam's own motion for interim suspension of a member of the Supreme Court pursuant to Rule 15(A) or a finding of reasonable cause to believe misconduct was committed by a member of the Supreme Court of Guam pursuant to Rule 17(B)(2), a Special Supreme Court shall be constituted. The Special Supreme Court shall consist of a number of judges equal to the number of justices of the Supreme Court of Guam. Judges of the Special Supreme Court shall meet the same qualifications as a regularly appointed Justice of the Supreme Court. Selection of the Judges of the Special Supreme Court shall be determined by the Clerk of the Supreme Court, by lot, from a list maintained by the Clerk of the Supreme Court of Guam of qualified and available persons.

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(C) Stipulated Dispositions. Final review of a stipulation pursuant to Rule 23 shall be by the Committee on Judicial Discipline and the Special Court.

(D) Final Disposition. If neither the disciplinary counsel nor the respondent objects to the decision of the Special Court pursuant to Rule 24(D), the decision shall be final and the Special Supreme Court shall not review the matter. If either the disciplinary counsel or the respondent objects, the Special Court shall file its report and conclusions, any minority opinion and the record of the proceedings with the Special Supreme Court which shall review the matter pursuant to Rule 25.

**SOURCE:** Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

**RULE 27. CASES INVOLVING ALLEGATIONS OF MENTAL OR PHYSICAL INCAPACITY.**

(A) Initiation of Incapacity Proceeding. An incapacity proceeding can be initiated by complaint, by a claim of inability to defend in a disciplinary proceeding or by an order of involuntary commitment or adjudication of incompetency.

(B) Proceedings to Determine Incapacity Generally. All incapacity proceedings shall be conducted in accordance with the procedures for disciplinary proceedings, except:

(1) the purpose of the incapacity proceedings shall be to determine whether the judge suffers from a physical or mental condition that adversely affects the judge's ability to perform judicial functions;

(2) all of the proceedings shall be confidential;

(3) the Committee on Judicial Discipline may appoint a lawyer to represent the judge if the judge is without representation; and

(4) if the Supreme Court concludes that the judge is incapacitated to hold judicial office, it may enter any order appropriate to the circumstances, the nature of the incapacity and the probable length of the period of incapacity, including:

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- (a) retiring the judge;
- (b) transferring the judge to judicial incapacity inactive status;
- (c) if the Supreme Court concludes that the judge is incapacitated to practice law, transferring the judge to lawyer incapacity inactive status; and
- (d) if a judicial disciplinary proceeding against the judge is pending and the Supreme Court concludes that the judge is incapacitated to defend, deferring the disciplinary proceeding, pursuant to Rule 27.D(2).

(C) Involuntary Commitment or Adjudication of Incompetency. If a judge has been judicially declared incompetent or is involuntarily committed on the grounds of incompetency or incapacity by a final judicial order after a judicial hearing, the Supreme Court, upon receipt of a certified copy of the order, shall enter an order immediately transferring the judge to both lawyer and judicial incapacity inactive status. A copy of the order shall be served, in the manner the Supreme Court shall direct, upon the judge, his or her guardian or the director of the institution to which the judge has been committed.

(D) Inability to Properly Defend in a Disciplinary Proceeding.

(1) If in the course of a disciplinary proceeding a judge alleges an inability to assist in the defense due to mental or physical incapacity, disciplinary counsel shall notify the Supreme Court. The Supreme Court shall immediately transfer the judge to lawyer and judicial incapacity inactive status pending a determination by the Supreme Court of the incapacity pursuant to Rule 27(B). A determination by the Committee on Judicial Discipline that the judge is able to assist in his or her own defense is interlocutory and may not be appealed before entry of a final order in the proceeding.

(2) If, pursuant to Rule 27(B), the Supreme Court determines the claim of inability to defend is valid, the disciplinary proceeding shall be deferred. Any investigation of the disciplinary complaint may continue. The judge shall be retained on lawyer and judicial incapacity inactive status until the Supreme Court grants a petition

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for reinstatement to active status as a lawyer or judge. If the Supreme Court considering the petition for reinstatement to active status determines that the petition shall be granted, the Supreme Court shall also determine the disposition of the interrupted disciplinary proceedings.

(3) If, pursuant to Rule 27(B), the Supreme Court determines that the claim of inability to defend is invalid but that the judge is incapacitated to hold judicial office, the disciplinary proceeding shall resume. The judge shall be retained on judicial incapacity inactive status.

(4) The raising of mental or physical condition as a defense to or in mitigation of formal charges constitutes a waiver of medical privilege.

**(E) Stipulated Disposition.**

(1) The Special Court shall designate one or more qualified medical, psychiatric or psychological experts to examine the judge prior to the hearing on the matter. The Special Court may designate an expert agreed upon by disciplinary counsel and the judge. The expert or experts shall report to the highest court and the parties.

(2) After receipt of the examination report, disciplinary counsel and the judge may agree upon proposed findings of fact, conclusions, and order. The stipulated disposition shall be submitted to the Special Court for a recommendation to the Supreme Court for approval or rejection. The final decision on the recommendation shall be made by the Supreme Court.

(3) If the Supreme Court accepts the stipulated disposition, the Supreme Court shall enter an order in accordance with its terms. If the stipulated disposition is rejected by the Supreme Court, it shall be withdrawn and cannot be used against the judge in any proceedings. If the Supreme Court rejects the stipulated disposition, the Supreme Court shall order that the hearing proceed.

**(F) Reinstatement from Incapacity Inactive Status.**

(1) No judge transferred to incapacity inactive status may resume active status except by order of the Supreme Court.

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(2) Any judge transferred to incapacity inactive status shall be entitled to petition for transfer to active status once a year or at whatever shorter intervals the Supreme Court may direct in the order transferring the judge to incapacity inactive status or any modifications thereof.

(3) Upon the filing of a petition for transfer to active status, the Supreme Court may take or direct whatever action it deems necessary or proper to determine whether the incapacity has been removed, including a direction for an examination of the judge by qualified medical or psychological experts designated by the Supreme Court.

(4) With the filing of a petition for reinstatement to active status, the judge shall be required to disclose the name of each psychiatrist, psychologist, physician and hospital or other institution by whom or in which the judge has been examined or treated since the transfer to incapacity inactive status. The judge shall furnish to the Supreme Court written consent to the release of information and records relating to the incapacity if requested by the Supreme Court or court-appointed medical or psychological experts.

(5) If a judge transferred to lawyer incapacity inactive status on the basis of a judicial determination of incompetence has been declared to be competent, the Supreme Court may dispense with further evidence that the incapacity to practice law has been removed and may immediately direct reinstatement to active status as a lawyer.

SOURCE: Adopted pursuant to Prom. Order No. 06-002-001 (Sept. 6, 2006, *nunc pro tunc* to Mar. 27, 2006). Amended and restated by Prom. Order No. 06-002-02 (Apr. 13, 2007).

# MODEL CODE OF JUDICIAL CONDUCT

Model Code of Judicial Conduct was adopted by the House of Delegates of the American Bar Association on August 7, 1990 and amended on August 6, 1997, August 10, 1999, and August 12, 2003.



## PREFACE

In 1924, the American Bar Association adopted the *Canons of Judicial Ethics* that, according to Chief Justice William Howard Taft, who chaired the ABA Committee on Judicial Ethics, were intended to be a “guide and reminder to the judiciary.”<sup>1</sup> The 1924 *Canons of Judicial Ethics* consisted of 36 provisions that included both generalized, hortatory admonitions and specific rules of proscribed conduct. The 1924 *Canons* were not intended to be a basis for disciplinary action. Many states, however, adopted this “guide” as a set of substantive rules, giving the *Canons* in those states the force of law with the added persuasion of sanctions for violations.<sup>2</sup>

Answering criticism that the 1924 *Canons* engaged in “moral posturing” that was more “hortatory than helpful in providing firm guidance for the solution of difficult questions,”<sup>3</sup> the ABA appointed a Special Committee on Standards of Judicial Conduct in 1969 to develop new ethics rules for judges. California Supreme Court Justice Roger J. Traynor chaired the Special Committee. After three years of work by the Special Committee, the *Code of Judicial Conduct* was adopted by unanimous vote of the ABA House of Delegates on August 16, 1972.<sup>4</sup> The 1972 *Code* was designed to be enforceable and was intended to preserve the integrity and independence of the judiciary.<sup>5</sup>

In 1986, the American Bar Association Standing Committee on Ethics and Professional Responsibility, which has the jurisdictional mandate to express its opinion on proper professional or judicial conduct, conducted a survey that led to the conclusion that, in general, the *Code* was serving its purposes well, but that a comprehensive review of the *Code* was desirable. That review was conducted from 1987 to 1990 by the Standing Committee on Ethics and Professional Responsibility and its Judicial Code Subcommittee composed of several members and former members of the Ethics Committee and several members of the judiciary. This national effort was funded by the Josephson Institute for the Advancement of Ethics, the State Justice Institute, and the American Bar Association.

In the revision process, the Association sought and considered the views of members of the judiciary, the bar and the general public. The Committee was aware that the 1972 *Canons*, apart from their subsections, were used widely as a basis for discipline. Therefore, the Committee declined to replace the black letter language with descriptive headings and determined that the *Code*,

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1 See Randall T. Shepard, *Campaign Speech: Restraint and Liberty in Judicial Ethics*, 9 GEO. J. LEGAL ETHICS 1059, 1065 n. 26 (1996) (citing the *Final Report and Proposed Canons of Judicial Ethics*, 9 A.B.A.J. 449, 449 (1923)).

2 *Id.* (citing Robert Martineau, *Enforcement of the Code of Judicial Conduct*, 1972 UTAH L. REV. 410, 410).

3 Robert McKay, *Judges, the Code of Judicial Conduct, and Nonjudicial Activities*, 1972 UTAH L. REV. 391, 391.

4 American Bar Association, *Report of the Special Committee on Standards of Judicial Conduct*, 96 REP. OF THE A.B.A. 733-34 (1971).

5 See E. WAYNE THODE, REPORTER'S NOTES TO THE CODE OF JUDICIAL CONDUCT (1973).

consisting of statements of norms denominated Canons, specific Sections, and explanatory Comment, stated the appropriate ethical obligations of judges.<sup>6</sup>

On August 7, 1990, the House of Delegates of the American Bar Association adopted the *Model Code of Judicial Conduct*. In the 1990 *Model Code*, a Preamble and a Terminology section were added, and an Application Section followed the Canons. An appendix, containing an example of a rule establishing a judicial ethics advisory committee, also was added. This sample rule, which was not intended to be adopted as part of the *Code*, was added to assist those jurisdictions where no such committee existed. The Association believes that such committees are essential to the proper administration of a code of judicial ethics.

Since its 1990 adoption, the *Model Code* has been amended three times: on August 6, 1997; August 10, 1999; and August 12, 2003. An additional appendix that summarizes those amendments and identifies their sources also was added in 2003. Two other appendixes are included: one containing information about the ABA Standing Committee on Ethics and Professional Responsibility, and the other correlating the provisions of the 1990 *Model Code* with those of the predecessor 1972 *Code*.

In September 2003, the American Bar Association announced the appointment of a Joint Commission to Evaluate the Model Code of Judicial Conduct with a mandate to review the 1990 *Model Code* and to recommend revisions for possible adoption. The Joint Commission, which includes judges, experts in the field of judicial and legal ethics and a public member, is a joint project of the ABA Standing Committee on Ethics and Professional Responsibility and the ABA Standing Committee on Judicial Independence. The Joint Commission expects to complete its work and report to the American Bar Association in 2005.

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<sup>6</sup> See LISA L. MILORD, THE DEVELOPMENT OF THE ABA JUDICIAL CODE at 8 (1992).

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**STANDING COMMITTEE ON ETHICS AND PROFESSIONAL**  
**RESPONSIBILITY and JUDICIAL CODE SUBCOMMITTEE**  
**(1987-1990)**

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# **MODEL CODE OF JUDICIAL CONDUCT**

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## **PREAMBLE**

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section, an Application Section and Commentary. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules. When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in disciplinary action. When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The Canons and Sections are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The text of the Canons and Sections is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system. See ABA Standards Relating to Judicial Discipline and Disability Retirement.\*

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges.

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\* Judicial disciplinary procedures adopted in the jurisdictions should comport with the requirements of due process. The ABA Standards Relating to Judicial Discipline and Disability Retirement are cited as an example of how these due process requirements may be satisfied.

They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

## TERMINOLOGY<sup>7</sup>

*Terms explained below are noted with an asterisk (\*) in the Sections where they appear. In addition, the Sections where terms appear are referred to after the explanation of each term below.*

"Aggregate" in relation to contributions for a candidate under Sections 3E(1)(e) and 5C(3) and (4) denotes not only contributions in cash or in kind made directly to a candidate's committee or treasurer, but also, except in retention elections, all contributions made indirectly with the understanding that they will be used to support the election of the candidate or to oppose the election of the candidate's opponent. See Sections 3 E(1)(e), 5C(3) and 5C(4).

"Appropriate authority" denotes the authority with responsibility for initiation of disciplinary process with respect to the violation to be reported. See Sections 3D(1) and 3D(2).

"Candidate." A candidate is a person seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, or authorizes solicitation or acceptance of contributions or support. The term "candidate" has the same meaning when applied to a judge seeking election or appointment to non-judicial office. See Preamble and Sections 5A, 5B, 5C and 5E.

"Continuing part-time judge." A continuing part-time judge is a judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a retired judge subject to recall who is permitted to practice law. See Application Section C.

"Court personnel" does not include the lawyers in a proceeding before a judge. See Sections 3B(7)(c) and 3B(9).

"De minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. See Sections 3E(1)(c) and 3E(1)(d).

"Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

- (i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the

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<sup>7</sup> Amended August 12, 2003, American Bar Association House of Delegates, San Francisco, California, per Report 105B.



value of the interest;

(ii) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

See Sections 3E(1)(c) and 3E(2).

"Fiduciary" includes such relationships as executor, administrator, trustee, and guardian. See Sections 3E(2) and 4E.

"Impartiality" or "impartial" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge. See Sections 2A, 3B(10), 3E(1), 5A(3)(a) and 5A(3)(d)(i).

"Knowingly," "knowledge," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. See Sections 3D, 3E(1), and 5A(3).

"Law" denotes court rules as well as statutes, constitutional provisions and decisional law. See Sections 2A, 3A, 3B(2), 3B(6), 4B, 4C, 4D(5), 4F, 4I, 5A(2), 5A(3), 5B(2), 5C(1), 5C(3) and 5D.

"Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship. See Section 5A(3)(a).

"Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Sections 4D(3), 4E and 4G.

"Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. See Sections 3E(1) and 4D(5).

"Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports. See Section 3B(11).

"Periodic part-time judge." A periodic part-time judge is a judge who serves or expects to

serve repeatedly on a part-time basis but under a separate appointment for each limited period of service or for each matter. See Application Section D.

"Political organization" denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office. See Sections 5A(1), 5B(2) and 5C(1).

"Pro tempore part-time judge." A pro tempore part-time judge is a judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard. See Application Section E.

"Public election." This term includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections. See Section 5C.

"Require." The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control. See Sections 3B(3), 3B(4), 3B(5), 3B(6), 3B(9) and 3C(2).

"Third degree of relationship." The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece. See Section 3E(1)(d).

## CANON 1<sup>3</sup>

### A JUDGE SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

**A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.**

#### Commentary:

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn

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<sup>3</sup> Amended August 12, 2003, American Bar Association House of Delegates, San Francisco, California, per Report 105B.

upon their acting without fear or favor. A judiciary of integrity is one in which judges are known for their probity, fairness, honesty, uprightness, and soundness of character. An independent judiciary is one free of inappropriate outside influences. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

## **CANON 2<sup>9</sup>**

### **A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES**

**A. A judge shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality\* of the judiciary.**

#### **Commentary:**

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. Examples are the restrictions on judicial speech imposed by Sections 3(B)(9) and (10) that are indispensable to the maintenance of the integrity, impartiality, and independence of the judiciary.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

See also Commentary under Section 2C.

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<sup>9</sup> Amended August 12, 2003, American Bar Association House of Delegates, San Francisco, California, per Report 105B.

**B. A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.**

**Commentary:**

Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office. As to the acceptance of awards, see Section 4D(5)(a) and Commentary.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request.

Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship. See also Canon 5 regarding use of a judge's name in political activities.

A judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

**C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.**

## Commentary:

Membership of a judge in an organization that practices invidious discrimination gives rise to perceptions that the judge's impartiality is impaired. Section 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership. *See New York State Club Ass'n. Inc. v. City of New York*, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S. Ct. 1940 (1987), 95 L. Ed. 2d 474; *Roberts v. United States Jaycees*, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984).

Although Section 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by the law of the jurisdiction also violates Canon 2 and Section 2A and gives the appearance of impropriety. In addition, it would be a violation of Canon 2 and Section 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.

When a person who is a judge in the date this Code becomes effective [in the jurisdiction in which the person is a judge]<sup>10</sup> learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.

## CANON 3 <sup>11</sup>

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<sup>10</sup> The language within the brackets should be deleted when the jurisdiction adopts this provision.

<sup>11</sup> Amended August 10, 1999, American Bar Association House of Delegates, Atlanta, Georgia per Report No. 123 and August 12, 2003, American Bar Association House of Delegates, San Francisco, California per Report No. 105B.

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

**A. Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law\*. In the performance of these duties, the following standards apply.

**B. Adjudicative Responsibilities.**

**(1)** A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

**(2)** A judge shall be faithful to the law\* and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

**(3)** A judge shall require\* order and decorum in proceedings before the judge.

**(4)** A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require\* similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

**Commentary:**

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

**(5)** A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

**Commentary:**

A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

**(6) A judge shall require\* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.**

**(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law\*. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:**

**(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:**

**(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and**

**(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.**

**(b) A judge may obtain the advice of a disinterested expert on the law\* applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.**

**(c) A judge may consult with court personnel\* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.**

**(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.**

**(e) A judge may initiate or consider any ex parte communications when**

expressly authorized by law\* to do so.

**Commentary:**

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted.

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae.

Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

**(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.**

**Commentary:**

In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard



for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Containing costs while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.

Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.

**(9) A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require\* similar abstention on the part of court personnel\* subject to the judge's direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.**

**(10) A judge shall not, with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial\* performance of the adjudicative duties of the office.**

**Commentary:**

Sections 3B(9) and (10) restrictions on judicial speech are essential to the maintenance of the integrity, impartiality, and independence of the judiciary. A pending proceeding is one that has begun but not yet reached final disposition. An impending proceeding is one that is anticipated but not yet begun. The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. Sections 3B(9) and (10) do not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by [Rule 3.6 of the ABA Model Rules of Professional Conduct]. (Each jurisdiction should substitute an appropriate reference to its rule.)

**(11) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.**

**Commentary:**

Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

**(12) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information\* acquired in a judicial capacity.**

**C. Administrative Responsibilities.**

**(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.**

**(2) A judge shall require\* staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.**

**(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.**

**(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.**

**(5) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer has contributed more than [\$ ] within the prior [ ] years to the judge's election campaign,<sup>12</sup> or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless**

- (a) the position is substantially uncompensated;**
- (b) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or**
- (c) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent and able to accept the position.**

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<sup>12</sup> This provision is meant to be applicable wherever judges are subject to public election; specific amount and time limitations, to be determined based on circumstances within the jurisdiction, should be inserted in the brackets.

**Commentary:**

Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers and guardians and personnel such as clerks, secretaries and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by Section 3C(4).

**D. Disciplinary Responsibilities.**

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge\* that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority\*.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title] should take appropriate action. A judge having knowledge\* that a lawyer has committed a violation of the Rules of Professional Conduct [substitute correct title if the applicable rules of lawyer conduct have a different title] that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority\*.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

**Commentary:**

Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.

**E. Disqualification.**

**(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:**

**Commentary:**

Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.

By decisional law, the rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as practicable.

**(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge\* of disputed evidentiary facts concerning the proceeding;**

**(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;**

**Commentary:**

A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b); a judge formerly employed by a government agency, however, should disqualify himself or herself in a proceeding if the judge's impartiality might reasonably be questioned because of such association.

**(c) the judge knows\* that he or she, individually or as a fiduciary, or the**

judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household\*, has an economic interest\* in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis\* interest that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship\* to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known\* by the judge to have a more than de minimis\* interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge\* likely to be a material witness in the proceeding.

(e) the judge knows or learns by means of a timely motion that a party or a party's lawyer has within the previous [ ] year[s] made aggregate\* contributions to the judge's campaign in an amount that is greater than [[ \$ ] for an individual or [ \$ ] for an entity] ] [[is reasonable and appropriate for an individual or an entity]]. 13

(f) the judge, while a judge or a candidate\* for judicial office, has made a public statement that commits, or appears to commit, the judge with respect to

(i) an issue in the proceeding; or

(ii) the controversy in the proceeding.

#### **Commentary:**

The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Section 3E(1)(d)(iii) may require the judge's disqualification.

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13 This provision is meant to be applicable wherever judges are subject to public election. Jurisdictions that adopt specific dollar limits on contributions in section 5 (C)(3) should adopt the same limits in section 3 (E)(1)(c). Where specific dollar amounts determined by local circumstances are not used, the "reasonable and appropriate" language should be used.

(2) A judge shall keep informed about the judge's personal and fiduciary\* economic interests\*, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

**F. Remittal of Disqualification.** A judge disqualified by the terms of Section 3E may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary:

A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.

#### CANON 4

#### **A JUDGE SHALL SO CONDUCT THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS**

**A. Extra-judicial Activities in General.** A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

**Commentary:**

Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.

Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status. See Section 2C and accompanying Commentary.

**B. Avocational Activities.** A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law\*, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

**Commentary:**

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.

In this and other Sections of Canon 4, the phrase "subject to the requirements of this Code" is used, notably in connection with a judge's governmental, civic or charitable activities. This phrase is included to remind judges that the use of permissive language in various Sections of the Code does not relieve a judge from the other requirements of the Code that apply to the specific conduct.

**C. Governmental, Civic or Charitable Activities.**

**(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law\*, the legal system or the administration of justice or except when acting pro se in a matter**

involving the judge or the judge's interests.

Commentary:

See Section 2B regarding the obligation to avoid improper influence.

**(2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law\*, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.**

Commentary:

Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system or administration of justice as authorized by Section 4C(3). The appropriateness of accepting extra-judicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. For example, service on the board of a public educational institution, unless it were a law school, would be prohibited under Section 4C(2), but service on the board of a public law school or any private educational institution would generally be permitted under Section 4C(3).

**(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law\*, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.**



**Commentary:**

Section 4C(3) does not apply to a judge's service in a governmental position unconnected with the improvement of the law, the legal system or the administration of justice; see Section 4C(2).

See Commentary to Section 4B regarding use of the phrase "subject to the following limitations and the other requirements of this Code." As an example of the meaning of the phrase, a judge permitted by Section 4C(3) to serve on the board of a fraternal institution may be prohibited from such service by Sections 2C or 4A if the institution practices invidious discrimination or if service on the board otherwise casts reasonable doubt on the judge's capacity to act impartially as a judge.

Service by a judge on behalf of a civic or charitable organization may be governed by other provisions of Canon 4 in addition to Section 4C. For example, a judge is prohibited by Section 4G from serving as a legal advisor to a civic or charitable organization.

**(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization**

**(i) will be engaged in proceedings that would ordinarily come before the judge, or**

**(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.**

**Commentary:**

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

**(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:**

**(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from**

other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law\*, the legal system or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

**Commentary:**

A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a nonprofit educational, religious, charitable, fraternal or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: 1) a judge may solicit for funds or memberships other judges over whom the judge does not exercise supervisory or appellate authority, 2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves and 3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.

Use of an organization letterhead for fund-raising or membership solicitation does not violate Section 4C(3)(b) provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

A judge must not be a speaker or guest of honor at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with this Code.

**D. Financial Activities.**

**(1) A judge shall not engage in financial and business dealings that:**

**(a) may reasonably be perceived to exploit the judge's judicial position, or**

**(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.**

**Commentary:**

The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this Section in some cases.

When a judge acquires in a judicial capacity information, such as material contained in filings with the court, that is not yet generally known, the judge must not use the information for private gain. See Section 2B; see also Section 3B(11).

A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge's court. In addition, a judge should discourage members of the judge's family from engaging in dealings that would reasonably appear to exploit the judge's judicial position. This rule is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for disqualification. With respect to affiliation of relatives of judge with law firms appearing before the judge, see Commentary to Section 3E(1) relating to disqualification.

Participation by a judge in financial and business dealings is subject to the general prohibitions in Section 4A against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Section 2B against the misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1. See Commentary for Section 4B regarding use of the phrase "subject to the requirements of this Code."

**(2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family\*, including real estate, and engage in other remunerative activity.**

**Commentary:**

This Section provides that, subject to the requirements of this Code, a judge may hold and

manage investments owned solely by the judge, investments owned solely by a member or members of the judge's family, and investments owned jointly by the judge and members of the judge's family.

**(3) A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:**

**(a) a business closely held by the judge or members of the judge's family\*,**  
or

**(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.**

**Commentary:**

Subject to the requirements of this Code, a judge may participate in a business that is closely held either by the judge alone, by members of the judge's family, or by the judge and members of the judge's family.

Although participation by a judge in a closely-held family business might otherwise be permitted by Section 4D(3), a judge may be prohibited from participation by other provisions of this Code when, for example, the business entity frequently appears before the judge's court or the participation requires significant time away from judicial duties. Similarly, a judge must avoid participating in a closely-held family business if the judge's participation would involve misuse of the prestige of judicial office.

**(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.**

**(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household\* not to accept, a gift, bequest, favor or loan from anyone except for:**

**Commentary:**

Section 4D(5) does not apply to contributions to a judge's campaign for judicial office, a

matter governed by Canon 5.

Because a gift, bequest, favor or loan to a member of the judge's family residing in the judge's household might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.

**(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law\*, the legal system or the administration of justice;**

**Commentary:**

Acceptance of an invitation to a law-related function is governed by Section 4D(5)(a); acceptance of an invitation paid for by an individual lawyer or group of lawyers is governed by Section 4D(5)(h).

A judge may accept a public testimonial or a gift incident thereto only if the donor organization is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial and gift are otherwise in compliance with other provisions of this Code. See Sections 4A(1) and 2B.

**(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;**

**(c) ordinary social hospitality;**

**(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;**

**Commentary:**

A gift to a judge, or to a member of the judge's family living in the judge's household, that is excessive in value raises questions about the judge's impartiality and the integrity of the judicial office and might require disqualification of the judge where disqualification would not otherwise be required. See, however, Section 4D(5)(e).

**(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3E;**

**(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;**

**(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or**

**(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.**

**Commentary:**

Section 4D(5)(h) prohibits judges from accepting gifts, favors, bequests or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, favors, bequests or loans from clients of lawyers or their firms when the clients' interests have come or are likely to come before the judge.

**E. Fiduciary Activities.**

**(1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary\*, except for the estate, trust or person of a member of the judge's family\*, and then only if such service will not interfere with the proper performance of judicial duties.**

**(2) A judge shall not serve as a fiduciary\* if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.**

**(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary\* capacity.**

**Commentary:**

The Time for Compliance provision of this Code (Application, Section F) postpones the time for compliance with certain provisions of this Section in some cases.

The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary. For example, a judge should resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which would place the judge in violation of Section 4D(4).

**F. Service as Arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law\*.**

**Commentary:**

Section 4F does not prohibit a judge from participating in arbitration, mediation or settlement conferences performed as part of judicial duties.

**G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family\*.**

**Commentary:**

This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or the judge's family. See Section 2(B).

The Code allows a judge to give legal advice to and draft legal documents for members of the judge's family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter.

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Canon 6, new in the 1972 Code, reflected concerns about conflicts of interest and appearances of impropriety arising from compensation for off-the-bench activities. Since 1972, however, reporting requirements that are much more comprehensive with respect to what must be reported and with whom reports must be filed have been adopted by many jurisdictions. The Committee believes that although reports of compensation for extra-judicial activities should be required, reporting requirements preferably should be developed to suit the respective jurisdictions, not simply adopted as set forth in a national model code of judicial conduct. Because of the Committee's concern that deletion of this Canon might lead to the misconception that reporting compensation for extra-judicial activities is no longer important, the substance of Canon 6 is carried forward as Section 4H in this Code for adoption in those jurisdictions that do not have other reporting requirements. In jurisdictions that have separately established reporting requirements, Section 4H(2) (Public Reporting) may be deleted and the caption for Section 4H modified appropriately.

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#### **H. Compensation, Reimbursement and Reporting.**

**(1) Compensation and Reimbursement.** A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

**(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.**

**(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.**

**(2) Public Reports.** A judge shall report the date, place and nature of any activity for which the judge received compensation, and the name of the payor and the amount of compensation so received. Compensation or income of a spouse attributed to the judge by operation of a community property law is not extra-judicial compensation to the judge. The judge's report shall be made at least annually and shall be filed as a public document in the office of the clerk of the court on which the judge serves or other office designated by law\*.

Commentary:



See Section 4D(5) regarding reporting of gifts, bequests and loans.

The Code does not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. In addition, the source of the payment must not raise any question of undue influence or the judge's ability or willingness to be impartial.

**I. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law\*.**

Section 3E requires a judge to disqualify himself or herself in any proceeding in which the judge has an economic interest. See "economic interest" as explained in the Terminology Section. Section 4D requires a judge to refrain from engaging in business and from financial activities that might interfere with the impartial performance of judicial duties; Section 4H requires a judge to report all compensation the judge received for activities outside judicial office. A judge has the rights of any other citizen, including the right to privacy of the judge's financial affairs, except to the extent that limitations established by law are required to safeguard the proper performance of the judge's duties.

## CANON 5 <sup>14 15</sup>

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14 Introductory Note to Canon 5: There is wide variation in the methods of judicial selection used, both among jurisdictions and within the jurisdictions themselves. In a given state, judges may be selected by one method initially, retained by a different method, and selected by still another method to fill interim vacancies.

According to figures compiled in 1987 by the National Center for State Courts, 32 states and the District of Columbia use a merit selection method (in which an executive such as a governor appoints a judge from a group of nominees selected by a judicial nominating commission) to select judges in the state either initially or to fill an interim vacancy. Of those 33 jurisdictions, a merit selection method is used in 18 jurisdictions to choose judges of courts of last resort, in 13 jurisdictions to choose judges of intermediate appellate courts, in 12 jurisdictions to choose judges of general jurisdiction courts and in 5 jurisdictions to choose judges of limited jurisdiction courts.

Methods of judicial selection other than merit selection include nonpartisan election (10 states use it for initial selection at all court levels, another 10 states use it for initial selection for at least one court level) and partisan election (8 states use it for initial selection at all court levels, another 7 states use it for initial selection for at least one level). In a small minority of the states, judicial selection methods include executive or legislative appointment (without nomination of a group of potential appointees by a judicial nominating commission) and court selection. In addition, the federal judicial system utilizes an executive appointment method. See *State Court Organization 1987* (National Center for State Courts, 1988).

15 Amended August 6, 1997, American Bar Association House of Delegates, San Francisco, California, per Report No. 112.; August 10, 1999, American Bar Association House of Delegates, Atlanta, Georgia, per Report No. 123; and August 12, 2003, American Bar Association House of Delegates, San Francisco, California, per Report No. 105B.

**A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY**

**A. All Judges and Candidates**

**(1) Except as authorized in Sections 5B(2), 5C(1) and 5C(3), a judge or a candidate\* for election or appointment to judicial office shall not:**

- (a) act as a leader or hold an office in a political organization\*;**
- (b) publicly endorse or publicly oppose another candidate for public office;**
- (c) make speeches on behalf of a political organization;**
- (d) attend political gatherings; or**
- (e) solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.**

**Commentary:**

A judge or candidate for judicial office retains the right to participate in the political process as a voter.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by Section 5A(1) from making the facts public.

Section 5A(1)(a) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as county prosecutor, which is not "an office in a political organization."

Section 5A(1)(b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

A candidate does not publicly endorse another candidate for public office by having that candidate's name on the same ticket.

**(2) A judge shall resign from judicial office upon becoming a candidate\* for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law\* to do so.**

**(3) A candidate\* for a judicial office:**

**(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality,\* integrity and independence of the judiciary, and shall encourage members of the candidate's family\* to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;**

**Commentary:**

Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

**(b) shall prohibit employees and officials who serve at the pleasure of the candidate\*, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the Sections of this Canon;**

**(c) except to the extent permitted by Section 5C(2), shall not authorize or knowingly\* permit any other person to do for the candidate\* what the candidate is prohibited from doing under the Sections of this Canon;**

**(d) shall not:**

**(i) with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial\* performance of the adjudicative duties of the office; or**

**(ii) knowingly\* misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent;**

**Commentary:**

Section 5A(3)(d) prohibits a candidate for judicial office from making statements that commit the candidate regarding cases, controversies or issues likely to come before the court. As a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also Sections 3B(9) and (10), the general rules on public comment by judges. Section 5A(3)(d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this Section prohibit an incumbent judge from making private statements to other judges or court personnel in the

performance of judicial duties. This Section applies to any statement made in the process of securing judicial office, such as statements to commissions charged with judicial selection and tenure and legislative bodies confirming appointment. See also Rule 8.2 of the ABA Model Rules of Professional Conduct.

**(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A(3)(d).**

**B. Candidates Seeking Appointment to Judicial or Other Governmental Office.**

**(1) A candidate\* for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.**

**(2) A candidate\* for appointment to judicial office or a judge seeking other governmental office shall not engage in any political activity to secure the appointment except that:**

**(a) such persons may:**

**(i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;**

**(ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Section 5B(2)(a); and**

**(iii) provide to those specified in Sections 5B(2)(a)(i) and 5B(2)(a)(ii) information as to his or her qualifications for the office;**

**(b) a non-judge candidate\* for appointment to judicial office may, in addition, unless otherwise prohibited by law\*:**

**(i) retain an office in a political organization\*,**

**(ii) attend political gatherings, and**

**(iii) continue to pay ordinary assessments and ordinary contributions to a political organization or candidate and purchase tickets for political party dinners or other functions.**

**Commentary:**

Section 5B(2) provides a limited exception to the restrictions imposed by Sections 5A(1) and 5D. Under Section 5B(2), candidates seeking reappointment to the same judicial office or appointment to another judicial office or other governmental office may apply for the appointment and seek appropriate support.

Although under Section 5B(2) non-judge candidates seeking appointment to judicial office are permitted during candidacy to retain office in a political organization, attend political gatherings and pay ordinary dues and assessments, they remain subject to other provisions of this Code during

candidacy. See Sections 5B(1), 5B(2)(a), 5E and Application Section.

**C. Judges and Candidates Subject to Public Election.**

**(1) A judge or a candidate\* subject to public election\* may, except as prohibited by law\*:**

**(a) at any time**

**(i) purchase tickets for and attend political gatherings;**

**(ii) identify himself or herself as a member of a political party; and**

**(iii) contribute to a political organization\*;**

**(b) when a candidate for election**

**(i) speak to gatherings on his or her own behalf;**

**(ii) appear in newspaper, television and other media advertisements supporting his or her candidacy;**

**(iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and**

**(iv) publicly endorse or publicly oppose other candidates for the same judicial office in a public election in which the judge or judicial candidate is running.**

**Commentary:**

Section 5C(1) permits judges subject to election at any time to be involved in limited political activity. Section 5D, applicable solely to incumbent judges, would otherwise bar this activity.

**(2) A candidate\* shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public**

**support for the candidate's campaign no earlier than [one year] before an election and no later than [90] days after the last election in which the candidate participates during the election year. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.**

**Commentary:**

There is legitimate concern about a judge's impartiality when parties whose interests may come before a judge, or the lawyers who represent such parties, are known to have made contributions to the election campaigns of judicial candidates. This is among the reasons that merit selection of judges is a preferable manner in which to select the judiciary. Notwithstanding that preference, Section 5C(2) recognizes that in many jurisdictions judicial candidates must raise funds to support their candidacies for election to judicial office. It therefore permits a candidate, other than a candidate for appointment, to establish campaign committees to solicit and accept public support and reasonable financial contributions. In order to guard against the possibility that conflicts of interest will arise, the candidate must instruct his or her campaign committees at the start of the campaign to solicit or accept only contributions that are reasonable and appropriate under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge may, by virtue of their size or source, raise questions about a judge's impartiality and be cause for disqualification as provided under Section 3E.

Campaign committees established under Section 5C(2) should manage campaign finances responsibly, avoiding deficits that might necessitate post-election fund-raising, to the extent possible. Such committees must at all times comply with applicable statutory provisions governing their conduct.

Section 5C(2) does not prohibit a candidate from initiating an evaluation by a judicial selection commission or bar association, or subject to the requirements of this Code, from responding to a request for information from any organization.

**(3) A candidate shall instruct his or her campaign committee(s) at the start of the campaign not to accept campaign contributions for any election that exceed, in the aggregate\*, [\$ ] from an individual or [\$ ] from an entity. This limitation is in addition to the limitations provided in Section 5C(2). 16**

**(4) In addition to complying with all applicable statutory requirements for disclosure of campaign contributions, campaign committees established by a candidate shall file with [ ]<sup>17</sup> a report stating the name, address, occupation and employer of each person who has made campaign contributions to the committee whose value in the**

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<sup>16</sup> Jurisdictions wishing to adopt campaign contribution limits that are lower than generally applicable campaign finance regulations provide should adopt this provision, inserting appropriate dollar amounts where brackets appear. <sup>17</sup> Each jurisdiction should identify an appropriate depository for the information required under this provision, giving consideration to the public's need for convenient and timely access to the information. Electronic filing is to be preferred.

aggregate\* exceed [\$ ] 18. The report must be filed within [ ] 19 days following the election.

(5) Except as prohibited by law\*, a candidate\* for judicial office in a public election\* may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

**Commentary:**

Section 5C(5) provides a limited exception to the restrictions imposed by Section 5A(1).

**D. Incumbent Judges.** A judge shall not engage in any political activity except (i) as authorized under any other Section of this Code, (ii) on behalf of measures to improve the law\*, the legal system or the administration of justice, or (iii) as expressly authorized by law.

**Commentary:**

Neither Section 5D nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government. With respect to a judge's activity on behalf of measures to improve the law, the legal system and the administration of justice, see Commentary to Section 4B and Section 4C(1) and its Commentary.

**E. Applicability.** Canon 5 generally applies to all incumbent judges and judicial candidates\*. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to [Rule 8.2(b) of the ABA Model Rules of Professional Conduct]. (An adopting jurisdiction should substitute a reference to its applicable rule.)

## APPLICATION OF THE CODE OF JUDICIAL CONDUCT

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18 Jurisdictions wishing to adopt campaign contribution disclosure levels lower than those set in generally applicable campaign finance regulations should adopt this provision, inserting appropriate dollar amounts where brackets appear.

19 A time period chosen by the adopting jurisdiction should appear in the bracketed space.

Attachment A

Current ABA Model Code of Judicial Conduct



**A. Anyone, whether or not a lawyer, who is an officer of a judicial system<sup>20</sup> and who performs judicial functions, including an officer such as a magistrate, court commissioner, special master or referee, is a judge within the meaning of this Code. All judges shall comply with this Code except as provided below.**

**Commentary:**

The four categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. For the purposes of this Section, as long as a retired judge is subject to recall the judge is considered to "perform judicial functions." The determination of which category and, accordingly, which specific Code provisions apply to an individual judicial officer, depend upon the facts of the particular judicial service.

**B. Retired Judge Subject to Recall. A retired judge subject to recall who by law is not permitted to practice law is not required to comply:**

- (1) except while serving as a judge, with Section 4F; and
- (2) at any time with Section 4E.

**C. Continuing Part-time Judge. A continuing part-time judge\*:**

- (1) is not required to comply
  - (a) except while serving as a judge, with Section 3B(9); and
  - (b) at any time with Sections 4C(2), 4D(3), 4E(1), 4F, 4G, 4H, 5A(1), 5B(2) and 5D.

**(2) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.**

**Commentary:**

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<sup>20</sup> Applicability of this Code to administrative law judges should be determined by each adopting jurisdiction. Administrative law judges generally are affiliated with the executive branch of government rather than the judicial branch and each adopting jurisdiction should consider the unique characteristics of particular administrative law judge positions in adopting and adapting the Code for administrative law judges. *See, e.g., Model Code of Judicial Conduct for Federal Administrative Law Judges*, endorsed by the National Conference of Administrative Law Judges in February 1989.

When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to [Rule 1.12(a) of the ABA Model Rules of Professional Conduct]. (An adopting jurisdiction should substitute a reference to its applicable rule).

**D. Periodic Part-time Judge. A periodic part-time judge\*:**

**(1) is not required to comply**

**(a) except while serving as a judge, with Section 3B(9);**

**(b) at any time, with Sections 4C(2), 4C(3)(a), 4D(1)(b), 4D(3), 4D(4), 4D(5), 4E, 4F, 4G, 4H, 5A(1), 5B(2) and 5D.**

**(2) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.**

**Commentary:**

When a person who has been a periodic part-time judge is no longer a periodic part-time judge (no longer accepts appointments), that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the express consent of all parties pursuant to [Rule 1.12(a) of the ABA Model Rules of Professional Conduct]. (An adopting jurisdiction should substitute a reference to its applicable rule).

**E. Pro Tempore Part-time Judge. A pro tempore part-time judge\*:**

**(1) is not required to comply**

**(a) except while serving as a judge, with Sections 2A, 2B, 3B(9) and 4C(1);**

**(b) at any time with Sections 2C, 4C(2), 4C(3)(a), 4C(3)(b), 4D(1)(b), 4D(3), 4D(4), 4D(5), 4E, 4F, 4G, 4H, 5A(1), 5A(2), 5B(2) and 5D.**

**(2) A person who has been a pro tempore part-time judge\* shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto except as otherwise permitted by [Rule 1.12(a) of the ABA Model Rules of Professional Conduct]. (An adopting jurisdiction should substitute a**

reference to its applicable rule.)

**F. Time for Compliance.** A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 4D(2), 4D(3) and 4E and shall comply with these Sections as soon as reasonably possible and shall do so in any event within the period of one year.

**Commentary:**

If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Section 4E, continue to serve as fiduciary but only for that period of time necessary to avoid serious adverse consequences to the beneficiary of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Section 4D(3), continue in that activity for a reasonable period but in no event longer than one year.

Because of the need to encourage the establishment of judicial ethics committees in jurisdictions that do not have such committees either as free-standing entities or in combination with lawyer ethics committees, the following Appendix is provided. It is offered not as a model but simply as an example of provisions that a jurisdiction might adopt.

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**PLEASE NOTE: The Appendices are not part of the Model Code of  
Judicial Conduct as adopted on August 8, 1990 by  
the ABA House of Delegates.**

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## APPENDIX A

### JUDICIAL ETHICS COMMITTEE

A. The [chief judge of the highest court of the jurisdiction] shall appoint a Judicial Ethics Committee consisting of [nine] members. [Five] members shall be judges; [two] members shall be non-judge lawyers; and [two] members shall be public members. Of the judicial members, one member shall be appointed from each of [the highest court, the intermediate levels of courts, and the trial courts]. The remaining judicial members shall be judges appointed from any of the above courts, but not from the [highest court of the jurisdiction]. The [chief judge] shall designate one of the members as chairperson. Members shall serve three-year terms; terms shall be staggered; and no individual shall serve for more than two consecutive terms.

B. The Judicial Ethics Committee so established shall have authority to:

(1) by the concurrence of a majority of its members, express its opinion on proper judicial conduct with respect to the provisions of [the code of judicial conduct adopted by the jurisdiction and any other specified sections of law of the jurisdiction regarding the judiciary, such as financial reporting requirements], either on its own initiative, at the request of a judge or candidate for judicial office, or at the request of a court or an agency charged with the administration of judicial discipline in the jurisdiction, provided that an opinion may not be issued on a matter that is pending before a court or before such an agency except on request of the court or agency;

(2) make recommendations to [the highest court of the jurisdiction] for amendment of the Code of Judicial Conduct [of the jurisdiction]; and

(3) adopt rules relating to the procedures to be used in expressing opinions, including rules to assure a timely response to inquiries.

C. A judge or candidate for judicial office as defined in the Terminology Section of this Code who has requested and relied upon an opinion may not be disciplined for conduct conforming to that

opinion.

D. An opinion issued pursuant to this rule shall be filed with [appropriate official of the judicial conference of the jurisdiction]. Such an opinion is confidential and not public information unless [the highest court of the jurisdiction] otherwise directs. However, the [appropriate official of the judicial conference of the jurisdiction] shall cause an edited version of each opinion to be prepared, in which the identity and geographic location of the person who has requested the opinion, the specific court involved, and the identity of other individuals, organizations or groups mentioned in the opinion are not disclosed. Opinions so edited shall be published periodically in the manner [the appropriate official of the judicial conference of the jurisdiction] deems proper.

## APPENDIX B

### AMENDMENTS TO THE MODEL CODE OF JUDICIAL CONDUCT

1990-2003

The Model Code of Judicial Conduct has been amended by the ABA House of Delegates three times since its adoption in 1990. The amendments were made in 1997, 1999 and 2003.

The reader should be cautioned that not all of these amendments have been considered and/or adopted by the jurisdictions that have adopted the Model Code of Judicial Conduct to date. Furthermore, the judicial ethics rules of any adopting jurisdiction must be checked for amendments unique to that jurisdiction.

#### Terminology

Amended per 2003 Annual Meeting Report 105B

A definition of the term “impartiality” was added to incorporate the interpretation and application of the term in the majority decision of the Supreme Court of the United States in *Minnesota Republican Party v. White*.

#### Canon 1

Amended per 2003 Annual Meeting Report 105B

Language was added to the Commentary to Canon 1 to delineate more fully the elements that define the integrity of the judiciary: probity, fairness, honesty, uprightness, soundness of character, and freedom from inappropriate outside influences.

#### Canon 2

Amended per 2003 Annual Meeting Report 105B

Language was added to the Commentary to Canon 2 to note, as specific examples of acceptable and necessary restrictions on judicial conduct, the judicial speech restrictions imposed in Canon 3, which are considered indispensable to the maintenance of the integrity, impartiality and independence of the judiciary.

### **Canon 3B**

Amended per 2003 Annual Meeting Report 105B

A new section was added that mirrors the speech restrictions imposed upon judicial candidates in Canon 5, to establish clearly that sitting judges must discharge their regular adjudicative responsibilities in a manner that preserves judicial independence, integrity and impartiality. The accompanying Commentary was amended to refer to this addition, and to contain an explanation of the terms “pending proceeding” and “impending proceeding.”

### **Canon 3C**

Amended per 1999 Annual Meeting Report 123

A new section (5) was added identifying circumstances in which a judge is prohibited appointing a lawyer to a position if the lawyer has made contributions to the judge’s election campaign.

### **Canon 3E(1)**

Amended per 1999 Annual Meeting Report 123

A new section (e) was added to identify circumstances under which campaign contributions received from a party or the party’s lawyer would require a judge’s disqualification.

Amended per 2003 Annual Meeting Report 105B

A new section (f) was added to include among the disqualification provisions one that relates directly to campaign speech. The provision makes explicit the disqualification ramifications of prohibited speech violations.

### **Canon 5A(3)**

Amended per 2003 Annual Meeting Report 105B

Canon 5A(3)(a) was amended specifically to identify impartiality as a component of appropriate judicial conduct, along with integrity and independence.

Subsections of Canon 5A(3)(d) were collapsed to combine and to modify the “commit” clause and the “pledges and promises” clause to provide a clearer enumeration of what judicial speech was prohibited and to state more clearly the interest protected by that prohibition. References to statements that only “appear” to commit judges to certain conduct were deleted from the Code.

**Canon 5C(2) Comment**

Amended per 1997 Annual Meeting Report 112

Language was added to state the Association's preference for merit selection, and to indicate that election campaign contributions made by lawyers or others who appear before a judge may, by virtue of their size or source, raise questions about the judge's impartiality and be cause for disqualification.

**Canon 5C(3) and (4)**

Amended per 1999 Annual Meeting Report 123

Provisions were added to allow a jurisdiction to set limits on the dollar amounts judges' campaign committees may accept from individuals and entities, and to require disclosure of such contributions when they exceed a certain level, also to be determined by the jurisdiction.



## **APPENDIX C:**

### **ABA STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**

#### **COMPOSITION AND JURISDICTION**

The Standing Committee on Ethics and Professional Responsibility, which consists of ten members, may:

(1) by the concurrence of a majority of its members, express its opinion on proper professional or judicial conduct, either on its own initiative or when requested to do so by a member of the bar or the judiciary;

(2) periodically publish its issued opinions to the profession in summary or complete form and, on request, provide copies of opinions to members of the bar, the judiciary and the public;

(3) provide under its supervision informal responses to ethics inquiries the answers to which are substantially governed by applicable ethical codes and existing written opinions;

(4) on request, advise or otherwise assist professional organizations and courts in their activities relating to the development, modification and interpretation of statements of the ethical standards of the profession such as the Model Rules of Professional Conduct, the predecessor Model Code of Professional Responsibility and the Code of Judicial Conduct;

(5) recommend amendments to or clarifications of the Model Rules of Professional Conduct or the Code of Judicial Conduct; and

(6) adopt rules relating to the procedures to be used in issuing opinions, effective when approved by the Board of Governors.

[The above Composition and Jurisdiction statement is found at 31.7 of the Bylaws of the Association. The Rules of Procedure are not incorporated into the Bylaws.]

#### **RULES OF PROCEDURE**

1. The Committee may express its opinion on questions of proper professional and judicial conduct. The Model Rules of Professional Conduct and the Code of Judicial Conduct, as they may be amended or superseded, contain the standards to be applied. For as long as a significant number of jurisdictions continue to base their professional standards on the predecessor Model Code of Professional Responsibility, the Committee will continue to refer also to the Model Code in its

opinions.

2. The Committee may issue an opinion on its own initiative or upon a request from a member of the bar or the judiciary or from a professional organization or a court.

3. The Committee may issue opinions of two kinds: Formal Opinions and Informal Opinions. Formal Opinions are those upon subjects the Committee determines to be of widespread interest or unusual importance. Other opinions are Informal Opinions. The Committee will assign to each opinion a non-duplicative identifying number, with distinction between Formal Opinions and Informal Opinions.

4. The Committee will not usually issue an opinion on a question that is known to be pending before a court in a proceeding in which the requestor is involved. The Committee's published opinions will not identify the person who was the requestor or whose conduct is the subject of the opinion. The Committee will not issue an opinion on a question of law.

5. The Committee may invite or accept written information relevant to a particular opinion from a person or persons interested in such an opinion before the Committee begins its work on an opinion. Ordinarily, the Committee will not invite anyone to make an oral presentation or argument in support of that position.

6. When a Committee or staff member receives an inquiry about the status of a draft opinion from anyone outside the Committee, the member may inform the inquirer that the Committee is considering the question. Draft opinions may, in appropriate circumstances, be shown to other interested ABA Committees and entities. Committee and staff members shall not, absent unusual circumstances, discuss the substance of pending opinions with the public, but may mention topics related to pending opinions in a general fashion.

7. Before issuing an opinion with respect to judicial conduct the Committee will submit the proposed opinion to the Judges Advisory Committee and consider any objection or comment from the Judges Advisory Committee and any member of it. The Committee may assume that the Judges Advisory Committee and its members have no objection or comment if none is received by the Committee within 30 days after the submission.

8. If the Committee decides not to issue a requested opinion the requestor will be promptly notified.

9. The Committee will issue an opinion only with the concurrence of six members in a vote taken at a meeting or in a telephone conference call. When a Committee member votes against a position declaring a Committee policy, that vote may be recorded in the minutes, which may include the name of the dissenting Committee member. The minutes shall not reflect the names of Committee members voting for or against any non-Committee policy question except that a members vote shall be recorded and identified at the members request. When drafting an opinion, policy statement or other document to be publicly disseminated, the Committee shall make every effort to reach a consensus. When, after a full examination of the issue and an exchange of views, the Committee cannot reach a consensus, a dissenting opinion may be appropriate to express the views of a Committee member or members. A member may place a statement of dissent in the Committee file or request that the dissent be published with the opinion.

10. The Chair may assign to one or more members the responsibility of preparing a proposed

opinion for consideration by the Committee. The Committee will issue a requested opinion as promptly as feasible.

11. A Formal Opinion overrules an earlier Formal Opinion or Informal Opinion to the extent of conflict. An Informal Opinion overrules an earlier Informal Opinion to the extent of conflict but does not overrule an earlier Formal Opinion.

12. Opinions of the Committee issued before the effective dates of the Model Rules of Professional Conduct, the predecessor Model Code of Professional Responsibility and the Code of Judicial Conduct continue in effect to the extent not inconsistent with those standards and not overruled or limited by later opinions.

13. The Committee will make opinions and/or summaries of opinions available for publication in the American Bar Association Journal. The Committee will cause Formal Opinions and Informal Opinions to be published in loose-leaf form.

14. The Committee may through its staff arrange to provide informal responses to ethics inquiries the answers to which are substantially governed by applicable ethical codes and opinions of this Committee or other ethics committees. The staff will maintain a log of such inquiries that will periodically be reviewed by the Committee.

15. Information contained in Committee files relating to requests for opinions that would disclose the identity of the inquirer or the person whose conduct is the subject of the opinion will not voluntarily be disclosed by the Association without the consent of the affected persons.

## JUDGES ADVISORY COMMITTEE

An adjunct Committee of the Standing Committee on Ethics and Professional Responsibility, the Judges Advisory Committee plays a vital role in the development of judicial ethics opinions by collaborating with the Ethics Committee in drafting opinions interpreting the provisions of the Model Code of Judicial Conduct. The Advisory Committee lends its experience and expertise to the Standing Committee to ensure that these opinions are properly responsive to both the administrative and the substantive concerns of the bench.



## SENATOR THERESE M. TERLAJE

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina' trentai Singko na Liheslaturan Guåhan*

35<sup>th</sup> Guam Legislature

### COMMITTEE REPORT DIGEST

#### I. OVERVIEW

The Committee on Health, Tourism, Historic Preservation, Land and Justice convened a virtual public hearing on Wednesday, May 20, 2020 at 1:00 p.m. The item on the agenda was the consideration of the appointment of Dana A. Gutierrez to serve as a Judge of the Superior Court of Guam, and whose appointment history is as follows:

- Appointed by I Maga'hågan Guåhan on November 29, 2019, to serve as a Judge of the Superior Court of Guam;
- Appointment packet forwarded to I Liheslatura on November 29, 2019;
- Appointment packet forwarded to this committee for public consideration on November 29, 2019.

#### **Public Notice Requirements**

Notices for this Confirmation Hearing were disseminated via email to all senators and all main media broadcasting outlets on Tuesday, May 12, 2020 (5 Day Notice) and again on Monday, May 18, 2020 (48 Hour Notice). The notice was also published in the Guam Daily Post on Wednesday, May 13, 2020 and Monday, May 18, 2020.

#### **Senators Present**

Chairperson Therese M. Terlaje, Chairperson  
Speaker Tina Muña Barnes  
Vice Speaker Telen C. Nelson, Committee Member  
Senator Amanda Shelton, Committee Member  
Senator Kelly Marsh Taitano, Committee Member  
Senator Joe S. San Agustin, Committee Member  
Senator James C. Moylan, Committee Member  
Senator Mary Camacho Torres, Committee Member  
Senator Régine Biscoe Lee  
Senator Jose "Pedo" Terlaje

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Senator Telo Taitague  
Senator Wil Castro  
Senator Louise Muña

**Appearing Before the Committee**

Attorney Dana A. Gutierrez, Nominee  
Joseph Shimizu, Vice President/Chief Financial Officer, Ambros Inc. (pre-recorded video)  
AnaMaria Gayle, Esq., Alternate Public Defender  
Cynthia V. Ecube, Esq., Law Office of Cynthia V. Ecube, Esq.  
Ayano Ichida, Esq., General Counsel, WDI International Inc.  
Gloria Castro, Senior Assistant Attorney General, Health Quality Enforcement, California Attorney General's Office  
Rodney Jacob, Esq., Law Office of Calvo Fisher & Jacob LLP  
Michael A. Pangelinan, Esq., Law Office of Calvo Fisher & Jacob LLP  
Lorraine Okada, Okada Managing Consulting Services  
Georgette Bello Concepcion, Esq., Brooks Concepcion Law, P.C.  
Stephen Stettenbenz, American Job Center Coordinator, Guam Department of Labor  
Cathleen Moore-Lin, Executive Director, Research Corporation of the University of Guam  
Charlotte Huntsman, President, SHRM Guam Chapter  
Melanie Mendiola, Administrator, Guam Economic Development Authority  
Vince C. Camacho, Esq., Managing Principal, Camacho Calvo Law Group  
Tricee Limtiaco  
Andrew Gayle, Jr., Chief Operating Officer, GTA  
Joan Waki Muña, SHRM-SCP, SHPR  
Joephet R. Alcantara, Esq., Thompson Thompson & Alcantara, P.C.  
Stephen P. Hattori, Esq., Director, Guam Public Defender Service Corp.  
Joann Angoco

**Written Testimony Submitted**

Honorable Chief Justice F. Philip Carbullido, Supreme Court of Guam  
Honorable Justice Robert J. Torres, Supreme Court of Guam  
Honorable Katherine Maraman, former Chief Justice, Supreme Court of Guam  
Douglas B. Moylan, Former Attorney General of Guam  
Honorable Mayor Paul McDonald, Hågatña Heights  
Stephen Hattori, Esq. Director, Public Defender Service Corporation  
Danielle T. Rosete, Esq., Clerk of Court, Superior Court of Guam  
Helen J.D. Whippy, PhD, former UOG Vice President

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Joseph Shimizu, Vice President/Chief Financial Officer, Ambros Inc. (pre-recorded video)  
 Cynthia V. Ecube, Esq., Law Office of Cynthia V. Ecube, Esq.  
 Gloria Castro, Senior Assistant Attorney General, California Attorney General's Office  
 Michael A. Pangelinan, Esq., Law Office of Calvo Fisher & Jacob LLP  
 Lorraine Okada, Okada Managing Consulting Services  
 Cathleen Moore-Lin, Executive Director, Research Corporation of the University of Guam  
 Charlotte Huntsman, President, SHRM Guam Chapter  
 Tricee Lintiaco  
 Joan Waki Muña, SHRM-SCP, SHPR  
 Joephet R. Alcantara, Esq., Thompson Thompson & Alcantara, P.C.  
 Anita Arriola, Esq., Arriola Law Firm  
 Joaquin C. Arriola, Esq., Arriola Law Firm  
 Tod Thompson, Esq., Thompson Thompson & Alcantara, P.C.  
 Mitchell F. Thompson, Esq., Thompson Thompson & Alcantara, P.C.  
 Tim Roberts, Esq., Roberts Fowler & Visosky, LLP  
 Marcia K. Shultz, Esq., Legal Secretary, Marianas Legal Strategy Group, LLC  
 Minakshi V. Hemlani, Esq., Law Officers of Minakshi V. Hemlani  
 Sophia Santos Diaz, Esq.,  
 Helen Kim Colindres, Esq., Levinson Arshonsky & Kurtz, LLP  
 John Terlaje, Esq., The Law Office of John C. Terlaje, Esq.  
 Jesse N. Nasis, Esq., Attorney, Legal Counsel for Guam Department of Education (GDOE)  
 Sinforoso Tolentino, Esq., Camacho Calvo Law Group LLC  
 Rose Ayuyu Morales, SHRM-CP  
 Janalyn Cruz Damian, Esq., Legal Secretary, Calvo Fisher & Jacob, LLP  
 Ignacio C. Aguigui, Esq., The Law Offices of Ignacio Cruz Aguigui  
 Peter Onedera  
 Shaun M.C. Murphy, Director of Human Resources, Sheraton Maui  
 Donald Calvo, Esq., Camacho Calvo Law Group LLC

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Guam Investigations Agency International Inc., and submitted to the Committee on March 19, 2020.

Under Section VI. Determination of the Investigative Background Report, Guam Investigations Agency International Inc., concluded the following:

*“Qualification- was determined based on personal information collected, reviewed, verified, as well as, extensive interviews conducted through the course of this investigation, it was determined Ms. GUTIERREZ meets all requirements outlined in 7 G.C.A. §3109 (c) and is considered Qualified for a Judgeship with the Superior Court of Guam.*

*Ms. GUTIERREZ was born on Guam and raised in the village of Agana Heights. After completing high school at Academy of Our Lady (1989), she relocated to Los Angeles, California, where she attended the University of Southern California (USC) and USC Gould School of Law. Upon completion of her Bachelor’s Degree (1993) and Juris Doctorate (1997), Ms. GUTIERREZ returned back to Guam. She was admitted into the Guam Bar on December 5, 1997 and has actively practiced law since. Based on verification of employment, professional licensing and judicial clearances, it was determined Ms. GUTIERREZ possesses over 20 years of legal experience in the private sector and government. “*

Members of the Committee were invited to review the confidential report prior to the Confirmation Hearing. The confidential report will be filed with the Clerks Office on May 27, 2020.

## II. SUMMARY OF TESTIMONY & DISCUSSION

The public hearing was called to order at 1:03 PM. Chairperson Therese Terlaje presented the agenda item that would be heard during the hearing, informed of public notice compliance and presented the general rules of conduct and protocol for the virtual confirmation hearing. The appointment of Dana A. Gutierrez to serve as a Judge of the Superior Court of Guam was the only item on the agenda.

**Chairperson Therese M. Terlaje:** Welcome everyone. I would like to thank my colleagues for attending the hearing today beginning with my Vice-Chairperson Sabina Perez, Speaker Tina Muña Barnes, Vice Speaker Telena Nelson, Legislative Secretary Amanda Shelton, Minority Leader Telo Taitano, Senator Lee, Senator Joe San Agustin, Senator Kelly Marsh Taitano, Committee Members Senator Mary Torres, Senator James Moylan, Senator Louise Muña and Senator Will Castro.

Thank you, colleagues, for being here. Welcome to Ms. Gutierrez. Thank you, and I want to congratulate you first on your nomination to this position. I want to especially thank you for your patience in allowing us to do this hearing, by Zoom Virtual Conference and for the delay that we've had along the way due to the COVID-19 pandemic. I just want to thank you very much for your patience in that regard, and for your flexibility in allowing us to hold it in this manner. This is an unprecedented format for a Judicial nominee.

I want to welcome all of those who are here today to provide testimony and before we hear from the panel, I would like read a few items from the statute regarding appointment of judges. These are from Title 7 of the Guam Code Annotated.

*I Maga'lahren Guåhan*, the Governor of Guam, shall subject to the advice and consent of I Liheslaturan Guåhan, appoint a qualified person to any vacancy occurring in either the Supreme Court or the Superior Court of Guam, and to any newly created position of Justice or Judge authorized by statute. The Judicial Council and the Guam Bar Association may each submit a list of qualified nominees for *I Maga'lahren Guåhan's* [the Governor's] consideration.

The Presiding Judge and each other Judge of the Superior Court of Guam shall be a United States citizen, a bonafide resident of Guam for at least five (5) years and shall be in the active practice of law on Guam for a period of seven (7) years before said nomination.

No Justice or Judge shall, during the term of office, engage in the private practice of law. No Justice or Judge shall, during the term of office, run for or hold any other office or position of profit under the United States, any State, Guam, or any other political subdivision of the United States.

A thorough background investigation was conducted by the Committee to ensure compliance with the requirements listed in the statute. This background investigation report was made available to the members of the Committee on Justice prior to this hearing.

For the record, prior to this hearing, written testimony has been submitted in support of Ms. Gutierrez's nomination by:

Honorable Chief Justice F. Philip Carbullido, Supreme Court of Guam;

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Honorable Justice Robert J. Torres, Supreme Court of Guam;  
Honorable Katherine A. Maraman, Former Chief Justice, Supreme Court of Guam;  
Mayor Paul McDonald;  
Attorney Danielle T. Rosete, Clerk of Court, Superior Court of Guam;  
Former Attorney General Douglas B. Moylan;  
Public Defender Service Corporation Director Attorney Stephen Hattori;  
former UOG Vice President Helen J.D. Whippy, PhD;  
Attorney Anita Arriola;  
Attorney Tod Thompson;  
Attorney Mitchell F. Thompson;  
Attorney Tim Roberts;  
Attorney Marcia K. Shultz;  
Attorney Minakshi V. Hemlani;  
Attorney Sophia Santos Diaz;  
Attorney Helen Kim Colindres;  
Attorney John Terlaje;  
Attorney Jesse N. Nasis;  
Attorney Sinforoso Tolentino; and  
Rose Ayuyu Morales

We are going to now hear from the witnesses who have signed up to testify today and we have asked each of them to limit their testimony to three minutes, because of the number of witnesses that we have. The first one will be a pre-recorded testimony by Mr. Joseph Shimizu. So, if I can ask MIS to please begin with that.

**Joseph S.N. Shimizu, Vice President/CFO, Ambrose Inc:**

*(Please see attached written copy of pre-recorded video testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much and next we will hear from Attorney AnaMaria Gayle. Please state your name for the record as you begin.

**Attorney AnaMaria Gayle, Alternate Public Defender:**

Hi my name is Annie Gail. I am an attorney with the alternate public defender. I'm the supervisor. I have been an attorney since 1993 and I've known Dana closely since 2008 when we first became members of the never-ending law week committee that Rod Jacob

and Cynthia "Cubie" (Ecube), who are both going to testify we're all on and that's when I became really good friends and close to Dana. Although I had seen her work with the private firm when she was at Carlsmith, I didn't really get a chance to tell her until we started working on the committee. And on that committee, we have eight people- eight women and one man, and we all had to learn how to work with each other and one thing about Dana is she is a team player, but when it comes to putting down her foot for something, she will put her foot down in terms of what is needed, because she was in charge of all the fire department regulations. And so, we're always looking to her to get our information from the fire department. Anyway, Dana has had a varied career, if you see in her resume. She's worked in the public and private sector. She's worked for the University of Guam. She's done a lot of stuff with the SHRM Program. She's my go-to person when I need any help with HR things because she is my Guru for HR. I just wanted to give a short background. Dana is smart. She will listen to all sides. But I believe she will make a good jurist because we need someone who is compassionate, both about the law and rule of law, but also about the person who comes before her. She has had a chance to practice as a what's called a guardian ad litem were she represents the interests of children, and when it comes to representing those in need of services, Dana was right there, right on top of everything and made some very sound and wise decisions when it came to her wards.

As far as working in the civil area, I didn't do as much civil. By the time I decided to become a public defender I was done with Civil work because I did not like it. But I know Dana loves doing her civil work and still practices and she's very good at it. I know her clients will miss her but I know Rod will miss her a lot too. Anyway, just wanted to say thank you Senator Terlaje for allowing me to go second. I have to go to an eye appointment, so thank you so much and good luck Dana. Thank you, your honor, I mean senator.

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Gayle. We will now hear from Attorney Cynthia V. Ecube.

**Cynthia V. Ecube, Esq.:**

*(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you Attorney Ecube. We will now hear from Ayano Ichida.

**Ayano Ichida, Esq.:** *Hafa Adai* my name is Ayana Ichida. I'm currently General Counsel for WDI International, the restaurant company operating Capriccioso and Tony Roma's restaurant in Guam. thank you for the honor of inviting me to provide testimony in support of Dana A. Gutierrez as judged for the Superior Court of Guam. I have known well I have known Dana since 1994 when we both started our law studies at USC Law School in Los Angeles. Go Trojans!

Dana was also my roommate at the university housing on campus. what I remember about Dana as a law student was her loyalty and commitment to her family, friends and community. She kept close touch with her parents and her sisters back home in Guam. Dana also knew that she would return to Guam and practice law near her family. Dana has deep respect and pride for Guam and would share insights into its beautiful culture with us. Dana was passionate about learning and took the most difficult and challenging classes and the library was her second home. However, she also made sure to use her law knowledge to give back to the community. At USC Dana participated in the post-conviction justice clinical program, which helps provide a second chance at justice for a life term inmate, primarily women and youth offenders. By participating in the clinical program, she learned how to provide dedicated representation and became a skilled advocate for her clients. Dana has an earnest belief in justice for all, especially for those who had no means or funds. One of Dana's best traits is her ability to listen without judgment and with great empathy. She gets to the heart of the matter and is able to provide advice in a fair manner. I'm entirely confident that Dana will fulfill her responsibilities a Superior Court judge with the highest level of integrity and professionalism that she has always shown and will be of great service to the diverse population of Guam. Thank you.

**Chairperson Therese M. Terlaje:** Thank you Attorney Ichida. We will now hear from Gloria Castro.

**Gloria Castro, Esq.:** Yes, good afternoon Chairperson Terlaje and good afternoon honorable members of this Committee. I am Gloria Castro. I am one of Ayano Ichida's classmates and have the honor of speaking on Dana's behalf today. I am so proud to be able to publicly express my unqualified and heartfelt support for the appointment of Dana Gutierrez, to the Superior Court of Guam. Ms. Gutierrez is exactly the person that you need to fulfill this important role and mandate, in administering justice for the people of Guam.

For the purposes of identification only, I am the Senior Assistant Attorney General of the Health Quality Enforcement section in the California Attorney General's Office. I've been there since 1999. I am in charge of seventy prosecutors and I represent state health care

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oversight agencies, including the Medical Board. We represent those clients in front of judges in California State and Federal courtrooms. I am both the head prosecutor on behalf of clients and where needed, I am also the head defense counsel for my clients.

Due to my public protection work, I am very experienced in the qualities, strengths and characteristics of the most well respected and fair judges and I have complete confidence that Ms. Gutierrez is prepared for the important work ahead of her. As we all are aware, she has achieved excellence in the law and I am just here to add that she's an honorable person, who has carefully cultivated her path over decades, to possess the maturity and strength of character to contribute to society in the critical role as judge. I can think of no better person.

I have known Dana who I have called, Danita all of her professional life, which started when we were both law students in the same class at the University of Southern California, USC. I met her in 1994 and it's a funny story. I questioned why she had not responded to my invitation to join the *La Raza* Law Student Association. This is the association that I was the president of for Chicanos and Latinos in USC. And I thought that based on her appearance and name, she was a Chicano like me. So, I went to investigate this person, who I thought was a box checker and was not joining my organization. Little did I know that she would earn my respect that day and I have never let it go.

She proudly corrected me very softly, but told me about her life experiences as a proud Chamorro and also told me of her plans to go back to Guam, to take the bar and devote her law career to her people. So, since that moment on I have appreciated her passion for her roots and family. The similarities in our upbringing and our people's histories bonded us. We found a kinship in the pride we both share from having come from humble beginnings, in humble roots, to have confronted and overcome racism and to have struggled to achieve our college and law school educations and to have come out of it all the much stronger. Like Ayano, I admired her work as a law student, defending incarcerated women in the post-conviction Justice Project and her work in the Women's Law Journal, which made her an excellent writer and advocate. You need both to do this very well, and the hard work and perseverance that got her here today. She reflected to me as a fellow law student in 1994 on that memorable day when I first met her and she continues to this day with that person she was as a law student. And since our graduation in 97, we've remained close friends and professional colleagues, notwithstanding the distance.

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I knew the day would come where I would get to tell a panel, just like this one, how deeply I admire Dana's intelligence, personal drive, fairness, compassion, talent and excellence. I value that she's never forgotten where she's come from and that she has always given back, as you can see from her public service resume. And as you will hear from others, I'm not alone and deeply admiring and respecting her. I just really wish I could be there in person, on this proud day in Dana's personal history. In conclusion she's an outstanding woman who has the quality of mind and character and innate desire to improve the administration of justice and lives of all. She will serve honorably for a lifelong, and committed to Guam as a judge. She's selfless, we'll work above and beyond and she will do what it takes to achieve justice. The diversity in her professional experiences and passions have exposed her to every walk of life. She's courageous. She has cultivated qualities and these will serve her well as a judge in Guam. Thank you very much and I strongly and proudly support and recommend her. Thank you very much for your time.

**Chairperson Therese M. Terlaje:** Thank you very much for your time Attorney General Castro. *Si Yu'os ma'åse'*. Next we will hear from Rodney Jacob. Again, if I can just remind everyone to please keep your testimony to three minutes. *Si Yu'os ma'åse'*.

**Rodney Jacob, Esq.:** That was really an important reminder for me Senator, so I'll make sure that the I do that. Thank you for letting me testify. My name is Rodney Jacob. I testify of course in support of Attorney Dana Gutierrez as the next Superior Court Judge. Having been a member of the Bar and actively involved in the federal and local Judiciary since 1995, I cannot stress how critical her confirmation will be to our community. Judge nominee Gutierrez is an appropriate choice for such an important position. She's capable, humble and most of all, she's focused on service to our people and understands that the law must work for our community. Judge nominee Gutierrez knows that the law is about people and for the people- all of us. In her mind, people are first. I know this not just because she and I work at the same law firm, but because of her work for the last thirteen years on Guam's nationally acclaimed Law Week Committee, of which this body has played an important part.

I want to talk a little bit about Dana from this perspective, of an active and engaged community leader, whose purpose year after year has been to make the law better serve our people. As co-Chair of that committee with Superior Court Clerk, Danielle Rosete, we saw Dana walk the walk, rather than just talk the rule of law talk. Dana and a group of remarkable colleagues started Law Week thirteen years ago with the design to demystify the Judicial Branch for the community. Dana took that mission to heart and was the

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principal organizer of our signature Law Day Fair event, where thousands and thousands of our people attended for the purpose of meeting face-to-face, those representatives of every agency of the judicial branch.

She ensured that she vetted each one of those agencies and then she reached out to our attending *Manamko'*, parents, young adults, and kids to listen to them, and listen to them individually and their legal issues. And on the spot, she would match them up with a service provider that could help them, whether it was Catholic Social Services, or the probation officer or probate lawyer. It was tireless and quite frankly, quiet work. But we on the committee could not help but notice the powerful impact she had on people. It was that quality, Dana's heart for people who needed the Judiciary to vindicate something important, that awed all of us. It was because of this experience, when my law firm had the opportunity to hire Dana, that I knew she would bring much more than a razor-sharp intellect, and a personal savvy to our practice. But a much, much, more important ingredient, care, care for the people we serve. Likewise, when she sits on the bench, she will most assuredly bring this care for our people, as well as a deep care for justice in the great institution that protects all the rights and way of life. I have a lot more to say about Dana but I know we have a limited time. She is to say the least, awesome and I feel lucky for one, that she would be our next Superior Court Judge, should this body so agree. I urge all of our Senators to please confirm her and Dana congratulations and thank you for taking this important step for people.

**Chairperson Therese M. Terlaje:** Thank you Attorney Jacob. We will now hear from Michael Pangelinan.

**Attorney Michael A. Pangelinan:** *(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Pangelinan. Now we will hear from Lorraine Okada. Ms. Okada, please press the unmute on the bottom left of your screen.

**Lorraine Okada:** Chairperson Terlaje, Vice-Chair Sabina Perez, and members of the committee: My name is Lorraine Okada, a resident of Guam and owner of Okada Managing Consulting Services, specializing in Human Resources. I also want to say that I am Dana's other mother. She calls me Mom all the time and I refer to her as my other daughter. So, you can tell the age difference here.

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(Please see attached written testimony)

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Okada. We will now hear from Attorney Georgette Bello Concepcion. Attorney Concepcion, please unmute yourself on the bottom left-hand corner of the screen.

**Georgette Bello Concepcion, Esq.:** Yes, I had to ask my fourteen-year-old daughter to set this up for me, so bear with me. *Buenas yan Hafa Adai* Chairpersons Terlaje and members of the Committee on Justice. My name is Georgette Bello Concepcion and I'm an Attorney. I am a partner with the law firm of Brooks, Conception and Terry Brooks is my partner, we've been partners for almost 4 years now. I've practiced here in Guam for a little over 19 years now. I've known Dana for most of those 19 years that I have been licensed to practice here on Guam.

The first time I met Dana was in one of the courtrooms early in my career as an attorney. My first impression of Dana was, "Wow! That chick is tough, but she's very intelligent." So, that was my first impression of Dana, and first impressions are lasting, so goes the saying. And here it is very true. Dana is an excellent attorney. I had the opportunity to work with her professionally. She is very methodical in her work. Her attention to detail is so exemplary that she just does not miss a beat. She is tough as nails but in a tactful and professional manner. She is not afraid to speak her mind. Her tenacity is an admirable and she has an outstanding work ethic. But most importantly, Dana is passionate about her work, but compassionate to those who deserve her kindness. I think that having compassion is more if not just as important as having passion when acting a legal advocate. And oh yes, she is a devoted dedicated loyal USC Trojan and loves, loves, loves her alma maters football team. She even has her favorite USC football player as her screensaver on her cell phone, instead of her husband David's photo. Now that is dedication.

I had the pleasure of working with Dana, when she served as a Board of Directors on the Guam Solid Waste Authority Board and I was the Board's legal counsel. She worked very well with the other board members and the GSWA staff. Being a member of the GSWA is just one of the many, many ways in which Dana has given back to the community. That's a role that she has done a lot of volunteer work that I'm aware of, and she always does everything the utmost of her ability.

I also served with Dana as a member on the Guam Bar Association Board of Governors for two or three two-year terms. She was always prepared and ready to contribute to the business at hand. She was a great advocate for our fellow members of the Guam Bar Association, and at the same time, she also was cognizant of current events and how those current events and just how is life in general, affected the practice of law. For these reasons, I believe Dana would be an asset to the Judiciary of Guam as a Superior Court Judge. I know Dana possesses the necessary skills and intelligence to fulfill her duties expected of a judge and even more.

I believe that Dana will serve the public well and that Governor Lou Leon Guerrero's nomination and the Legislature's confirmation will allow Dana to be the public service she was destined to become. I fully support the appointment of Dana as the next Superior Court Judge and I kindly ask the committee confirm her nomination, so that she can get started to do what she was destined to do, and that was to be a public servant and to be a judge in the Superior Court of Guam. Thank you, madam Chair and members of the Committee on Justice.

**Chairperson Therese M. Terlaje:** Thank you Attorney Concepcion. We will now hear from Cathleen Moore-Lin.

**Cathleen Moore-Lin:** *(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Cathleen Moore-Lin, and we will now hear from Charlotte Huntsman. Are you here?

**Charlotte Huntsman:** *(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Huntsman and SHRM. Now we will hear from Stephen Stettenbenz. Please proceed.

**Stephen Stettenbenz:** *Hafa Adai* and good afternoon Senator Therese Terlaje and members of the fellow hearing participants. Thank you for the opportunity to provide Zoom testimony for Dana Gutierrez to serve as the next Superior Court of Guam Judge. I've known and have been friends with Dana since we met in 1984 at Bishop Baumgartner



Junior High, in the seventh grade. She was smart, friendly and always willing to talk to you if you had a problem. She was never too busy and was always willing to give advice from a female perspective.

She was someone that I would go to, to help me with school work if I did not understand and was always able to explain and help me with my work. When we graduated from Bishop in 1986, the following year Dana attended Academy and I attended Father Duenas. Although we didn't see each other every day, we still kept in touch and would often see each other at high school dances or interscholastic sporting events. In 1989, she graduated from Academy and then attended the University of Southern California and earned her Bachelor's of Arts in Political Science and East Asian Studies with honors, and then attended the USC School of Law. Go Trojans! She has served the people of Guam on numerous committees and boards. She has numerous publications and has presented a hundred hours of training most to the public and to her students at Guam Community College.

Today in my professional career, I often seek the advice in anything and everything that has to do with human resources. We often see each other at SHRM management monthly breakfast meetings and the yearly SHRM conference. Every chance we get, we take a photo of each other and send it to our Bishop 89'ers chat with the caption, "Look what I found!"

I hope that the community gives Dana the opportunity to serve as the next Superior Court of Guam Judge. After thirty-four years of knowing Dana, I'm proud to call her my friend and I know that she will bring her academic, social and professional experience and serve the people of Guam honestly, compassionately and fairly. Thank you for this opportunity Senator and members of the Committee. Please be safe. God bless you. God bless Guam. Biba Dana Gutierrez! Biba Guam! Thank you.

**Chairperson Therese M. Terlaje:** Thank you Mr. Stettenbenz. I just want you all to know that when you mention USC and Trojans, you're making me wince because I'm a Bruin, UCLA. We've (USC and UCLA) had a long rivalry (laughter) but thank you very much. We will move on now to the CEO of GEDA, the Guam Economic Development Authority, Ms. Melanie Mendiola.

**Melanie Mendiola:** *Hafa Adai* and thank you Madam Chair. Just so you know it's nice to see you all from this morning and I just want you to know that report will be in your inbox

by close of business today. I thought I'd take a moment to tell you that, and also a happy birthday to Lorraine Okada, who is still on the Zoom meeting. I'm not going to say how old she is but she's still lovely and healthy as ever.

Okay, so *Hafa Adai* Madam Chair and members of the committee, my name is Melanie Mendiola, Administrator/CEO at the Guam Economic Development Authority. But, I'm here in my personal capacity to provide a testimony for my dear friend, the nominee Dana Gutierrez for her judicial appointment. I most recently came before this body to provide oral testimony during her appointment to the Guam Board of Solid Waste Authority. You know, we're still friends. That's the update since then. I still vigorously support her in this nomination and continue to be very, very proud of the work of my friend. Aside from being friends, Dana and I have served in areas of community service. We sat on the Board of the Guam Girl Scouts together for a number of years. I've attending a number of her trainings facilitated by the Society of Human Resource Management, most recently on cannabis in the workplace. Dana was nominated as the Guam Young Professional of the Year in 2013.

When I was project director at Farm to Table Guam, we couldn't afford an attorney to provide good consultation on human resources matters and Dana has always been more than willing to volunteer her time to help out the nonprofits with very small budgets.

I believe my friend, the nominee, has built a resume with a real specialty in the area of Human Resources. Even as she goes through this process, rather than cleaning out her office and you know, chilling out like many of us might, she's busy helping companies through staffing issues during this really tenuous time in the economy. And more than her very specialized legal experience, which will likely prove very valuable, Dana's approachable and she speaks in layman's terms, which as an attorney I think it's really important for individuals who appear before her. She's very understandable and approachable.

Lastly, the appointee Dana Gutierrez is a true daughter of Guam. She's a product of both the public and private school system and most especially as an alumnus of the Academy of Our Lady of Guam. Go Cougars! You know, the only thing I can say about my friend that needs a little help is her Chamorro speaking skills. But I can say that that the spirit of *Inafa'maolek* is certainly alive and well with my friend Dana. and for all these reasons I

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provide my enthusiastic support for my friend, for my Prima, for my sister Ms. Dana Gutierrez. Thank you very much.

**Chairperson Therese M. Terlaje:** *Si Yu'os Ma'ãse* Ms. Mendiola. We will now hear from Vince Camacho.

**Vince C. Camacho, Esq.:** *Hafa Adai* Senator Terlaje and the members of the Committee on Justice. My name is Vincent Camacho, Managing Principal of a Camacho Calvo Law Group. I'm here to testify in favor of the nomination Dana A. Gutierrez to the position Judge of the Superior Court of Guam. I have known Dana for at least 20 years. I consider her a friend, colleague and family.

Over the past couple of years, we worked together as programmers for the Guam Chapter of the Society of Human Resource Management to review proposed legislation of the federal, local levels. At every step, Dana was able to walk through the legislation and identify issues to address methodically. While she has her opinions and strong convictions, Dana never faltered in asking for the views of others. She respectfully sought input to ensure that all sides had a chance to voice their concerns. While most of the time her ideas were eventually accepted, with Dana, everyone thought that the process was fair and just. As attorneys representing Guam employers, Dana and our office worked hand-in-hand to help facilitate information and training for employers. She worked and presented with Attorney Meredith Sayre from our office on many occasions, and worked together in drafting policies and procedures for our clients.

Now to the meat of this, as to whether Dana's intellect and ability will make her a good judge. I have to say I have three reasons why Dana would make a great judge. First, Dana has excellent legal ability. She exudes the required intellectual capacity to interpret and apply established legal principles to specific factual situation. she can communicate the reasoning leading to her legal conclusions. after all, she graduated from USC. If there's one thing Dana exhibits the most of, it is her ability to extract issues among a multitude of facts to ultimately reach concise decisions, ones that all can understand and comprehend. In addition to her vast legal experience and everyone has spoken for, Dana has always exemplified the willingness to learn new skills and knowledge which is essential to a Judge's performance and desire to improve judicial procedure and administration.

If there's one thing Dana dislikes, it's inefficient processes and for those of us who have worked with Dana, she does not hold back. If she genuinely believes something is wrong, we will all know about it. As long as I've known her, she continually questions why things are inefficient and she continually looks for better ways to do something. She is the best practice champion. I can just see her now in the roads meeting conferring with the other justices and judges on how to streamline the judicial procedure and processes.

The second reason is Dana has a reputation for excellent character and integrity. for as long as I've known her, I've only seen examples of high ethical standards. While Dana may have strong opinions one way or another, she is always ready and willing to hear both sides. I'm not sure that her husband David will agree with me, but from my experience, she is always ready to listen to the other side of the story. We all know Dana can be loud and boisterous at times, especially during college football season but can temper this energy with the ability to sit down with anyone and discuss the merits of any factual situation. She balances the uncanny ability to be the life of the party with her ability to be calm and compassionate when the need arises.

On many occasions, I've seen Dana disregard her personal biases, personalities, partisan political influences, so her advice and conclusions are based on the facts and the law. This ability to put aside her personal bias is a true testament to her excellent character and integrity.

Finally, Dana has the judicial temperament that we as attorneys practicing in the Superior Court of Guam want to see in the courtroom. Our ethical rules require us attorneys to zealously advocate for our clients. Sometimes this advocacy takes a life of its own.

To fairly evaluate a case, the judge must be patient, open-minded, courteous, tactful and firm understanding, compassionate and most importantly humble. While I may be biased in Dana's favor, I can honestly say that I've seen and experienced Dana exude all these characteristics. With Dana, what-you-see-is-what-you-get. You know as a friend she will be there when you need her the most. As a colleague, she was always there to zealously advocate for her clients but in the same breath, she can understand the other side. I think the only time I've seen Dana and impatient is when we go out to eat or drink. but don't we all get impatient when we're hungry or need that shot? I'm sure I will not be the only one to say that Dana has the required temperament to be a judge.

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I am sure the day will come when Dana will rule against a client of mine and I may wholeheartedly disagree with her and file an appeal to overturn her decision. After all, judges don't always get it right. But I can take comfort knowing that her decision was fair and thoughtful and she considered the merits and the facts in the law. In closing, I have the utmost confidence that Dana will make an excellent jurist for the Superior Court of Guam but more importantly for the people of Guam. Dana has the requisite legal ability, character and integrity and the judicial temperament to sit as the Honorable Dana A. Gutierrez, Judge, Superior Court of Guam.

Thank you for your time and hopefully your favorable consideration for Dana to sit as the next judge in the Superior Court of Guam. Thank you.

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Camacho. we will now hear from Tricee Limtiaco. Thank you for waiting.

**Tricee Limtiaco:** *Hafa Adai* everybody and thank you so much. I'm not quite sure that my testimony can top anybody, any of the other witnesses today so thank you.

*(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Limtiaco. We will now hear from Andrew Gayle.

**Andrew Gayle, Jr.:** *Hafa Adai* Senator Terlaje and the other senators of the Committee on Justice. My name is Andrew Gale and I am the Chief Operating Officer of GTA, as well as the Chairman of the Guam Solid Waste Authority, Board of Directors. Thank you for this opportunity to testify on behalf of Dana Gutierrez. I will keep my comments brief as requested, as opposed to all the other lawyers who preceded me. After hearing all the positive testimony about Dana, I thought I might mix it up and say a few bad things about her. I can't think of anything to say, so I'll go with my original testimony. I have known Dana for some time in both the professional and personal capacity. Ms. Gutierrez has been a valuable member of the Guam Solid Waste Authority, Board of Directors the last few years and has helped guide the GSWA through the partial end of receivership.

She has been a very attentive board member, providing or inside from both a legal and Human Resources perspective. Her demeanor and temperament during board meetings and sometimes contentious court hearings, is quite admirable, and exemplifies the best qualities for a judge. As Chairman, I have been able to rely upon her to meaningfully contribute to the function of the Board and I called upon her frequently for her advice and input. Her appointment to the Superior Court will be the Judiciaries gain, will be a loss for the GSWA, which by the way, this is the second board member that we've lost to the Judiciary. Apparently, the road to the Judiciary goes through the GSWA Board. And even though she went to USC, I wholeheartedly support her nomination and urge the Senators of this committee to recommend her confirmation. Thank you for your time.

**Chairperson Therese M. Terlaje:** Thank you Mr. Gayle. We will now hear from Joann Waki Muña. Your microphone is not on. Please turn it on.

**Joann Waki Muña:** Is it on?

**Chairperson Therese M. Terlaje:** Yes, it is. Thank you.

**Joann Waki Muña:** *(Please see attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Muña. We will now hear from Joephet Alcantara.

**Joephet R. Alcantara, Esq:** Thank you Senator. Good Afternoon Senator Therese Terlaje and the Committee on Justice. Looks like I'm the 17th person on this list, so I'll keep my testimony both brief and clean. My name is Joephet Alcantara. I'm an attorney and partner in the law firm of Thompson, Thompson & Alcantara, here in Hagåtña.

I first met Dana back in 2018 very early in my legal career when I joined the law firm of Mair Mair Spade & Thompson. I was an associate and Dana was already a partner. And then in 2014, Ms. Gutierrez and I later became partners in the law firm of Thompson Gutierrez & Alcantara. And so indeed, we have worked a very long time together. And in fact, when I left the firm, I was really sad for quite a few months, but I eventually got over it. I'm therefore very familiar with the qualities that make Dana very suitable for appointment as a trial court judge. and in particular I have always known Dana to be

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patient, dignified and courteous to both her clients as well as to opposing counsel. not once have I ever witnessed Dana treat a client or opposing counsel with any disrespect or hostility and I have no doubt that she will bring this type of professionalism to her courtroom and we'll treat each litigant, each attorney and each witness with the same patience, dignity and courtesy she has always exhibited throughout her career. as Dana's former associate and later business partner, I'm also very familiar with her legal work. I can say that Dana's certainly has the requisite competence to interpret and apply established legal principles to factual situations, in resolving legal issues, as you've heard in the previous testimony. she methodically works through a legal problem and then carefully arrives at a thoughtful conclusion. And correspondingly, she also possesses all the skills necessary to communicate in both speech and writing, for thoughtful reasoning behind any legal conclusion.

In addition, in all the years that I've known her, Dana has exhibited integrity in her legal work and has maintained a consistent adherence to very high ethical standards. I have never known Dana to be untruthful and dishonest or to knowingly circumvent rules to achieve either a personal or professional objective. Dana is both honest and very sincere and as you've heard, she'll tell it like she sees it. And finally, as a record is showing Dana has devoted a significant portion of her time and energy to improving our legal system here in Guam through her active membership in local and National nonprofit organizations, government boards, professional associations as well as the Guam Bar Association. In fact, Dana has expressed to me her desire to pivot to public service. Indeed, her career long involvement in community activities- such a serving on the board of directors for the Guam Girl Scouts and the Guam Solid Waste Authority, and holding numerous leadership positions with Guam's Society for Human Resource Management- exemplifies commitment to public service.

It is with deep conviction that I urge the Committee to recommend the confirmation of my friend and my colleague Dana A. Gutierrez, as a next judge for the Superior Court of Guam. Thank you so much for your time.

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Alcantara. We will now hear from Mr. Stephen Hattori.

**Stephen P. Hattori, Esq.:** *Hafa Adai* Madam chairperson, Speaker Tina Muña Barnes, Senators and of course the woman of the hour Dana Gutierrez.

*(Please see the attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Hattori. We will now hear from Trina Angoco.

**Trina Angoco:** Good afternoon Chairperson Therese Terlaje and members of this Committee. My name is Trina Angoco and I am a resident of Maina. I am currently employed with the Camacho Calvo Law Group as the Business Office Manager. It is an honor for me to be here today to testify in support of Dana to the position of Judge of the Superior Court of Guam. She is the most enlightened choice and perfect fit for Superior Court Judge. I have known Dana for over 20 years. My first experience with her is during her employment as attorney with Carlsmith Ball and I was a legal secretary. During her employment with Carlsmith, Dana promoted and spearheaded the morale, welfare and recreation events. She felt it was important for the staff and attorneys to break away from the usual work day and do something that promoted team building in a fun way. We held these events on a quarterly basis, when our work load permitted. These MWR left an impression on me, as I find myself to this day reminiscing about those times. Dana left Carl Smith in 2003 to pursue a position with the University of Guam, as legal counsel. Although it was a bittersweet departure for me, I was happy for her and the opportunity coming her way.

As I was continuing my education at the Guam Community College, I enrolled in the labor and employment class in the fall of 2018. Dana taught that class as an Adjunct Professor. I was so excited to be able to learn what I could from her once again. Dana made a positive impact on the students, most of whom did not know much about employment labor law and the courts. she was always patient and pleasant during her lectures and with her bubbly personality there was never a dull moment. as I continued with my other classes in the past year, the mention of Dana will come up among student conversations as we discussed the classes that needed to be taken as supervision and management students. She comes highly recommended by her former students. With every encounter I had with Dana, there is always a take-away of experience and knowledge, layer by layer embedded in me. Dana has always displayed a high degree of integrity, responsibility and ambition in many aspects. A skilled leader who always maintain her professionalism. Has excellent communication skills and has great ability to interact effectively. I have known Dana to take the time to ensure that her I's were dotted and her t's where crossed. Based on my experiences with Dana, her character and flawless integrity, I passionately believe she is the

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most enlightened choice and a perfect fit for Superior Court judge. Thank you for allowing me this time and opportunity to testify on her behalf. Thank you.

**Chairperson Therese M. Terlaje:** Thank you very much Ms. Angoco. Senators and colleagues, I would like to announce that we have completed the testimonies of the witnesses that wanted to give live testimony. We are going to proceed with the testimony from the nominee herself. But before we do that, I would like for the record again to reflect my Committee members and Senators who are here. So, I'm going to recognize them again and thank you for being here, Speaker Tina Muña Barnes, Vice Speaker Telena Nelson, Legislative Secretary Amanda Shelton, Minority Leader Senator Telo Taitague, Senator Regine Biscoe Lee, Senator Joe San Agustin, Senator Kelly Marsh Taitano, Senator Mary Camacho Torres, Senator James Camacho Moylan, Senator Louise Muña, Senator Wil Castro, Senator Jose "Pedo" Terlaje. Thank you again colleagues and now without further delay, we will hear from the nominee, Dana A. Gutierrez. Ms. Gutierrez you may begin.

**Dana A. Gutierrez, Esq., Nominee:** Thank you. *Buenas yan Håfa Adai* Madame Chair Terlaje, members of the Committee and Senators.

*(Please see the attached written testimony)*

**Chairperson Therese M. Terlaje:** Thank you very much Attorney Gutierrez and congratulations on this nomination. Thank you again for your patience throughout this entire process. I am going to allow my colleagues to ask some questions of you. We will begin with Speaker Tina Muña Barnes.

**Speaker Tina Muña Barnes:** *Si Yu'os ma'åse'* Madame Chair and thank you to the panel here and to all my colleagues. I truly want to say to you Ms. Dana *un dungkolu na si Yu'os ma'åse* first for taking the time to come home and give back to the community.

I know that with the profession that you've had and the years that you've been working here on Guam, just making it a point to come home and serve your community is greatly admired. You know a lot of times money can drive weather they come home or not. but you took it upon yourself to make it a point to come home and serve your community, so God bless you for that. I will also want to say thank you for taking the time to speak with me and asking for an appointment, a courtesy visit and having the opportunity to speak to

you for quite some time and asking some questions- me asking some questions of you. I was very, very appreciative and inspired by our conversation. I also want to say that with a couple of your classmates there, I say, wow, what a great team. But more importantly, I did say that if I had any question to ask you during that meeting and based on your years of experience, based on your Human Resources experience and what you have today- if there was anything that you could bring to this third branch, equal branch of government, what would that idea be and what could you contribute to making you know the judiciary, even a better place to be at?

**Dana A. Gutierrez, Esq., Nominee:** If you're talking about my human resource background Senator, I'm hoping of course when we become judges we are not in a vacuum. We don't just have a courtroom. We're actually members of the Court community, as well as the administration of the Court. And for me at least, having worked there before, I believe I can be a big contribution. I do have the background in personnel management. I think if there's issues or processes at the Court that can be improved in that area, as well as any other type of processes which I seem to, at least from the testimony, be good at, I know that I can be a very good contributor in those areas. And I think that would also enhance the personnel management people over there. I could help them as well with my skills.

**Speaker Tina Muña Barnes:** Thank you so very much. That literally is inspiring. Madame Chair I just want to say that after a long discussion in the courtesy meeting that we had, I was very impressed, very inspired and I shared with her, including with her girlfriend Melanie Mendiola, that I would support her efforts. I see that a lot of family and friends were also on to testify on your behalf and it just brings out the true Spirit, the Chamorrita spirit that you have in sharing. And even more so, hearing the testimony from Attorney Gloria Castro, when she said I want to find out why she doesn't want to join and you proudly sharing that you're Chamorro and where you come from and what you want to do. But more importantly, wanting to come home. So yeah, that's an A-Plus for me. So, Madame Chair, I will give her my support. I hope that when we have session real soon next week, that we can expedite her committee report and that all my colleagues will share the same sentiments and give her their vote of confidence because I definitely will. I want to thank you for really taking the time to hold this public hearing. I know it wasn't easy, but this was great. Thank you very much. *Si Yu'os ma'åse'.*

God bless you Ms. Dana Gutierrez in your great success in this endeavor to help our people and be the firelight. Here comes the new judge! Thank you.

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**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** *Si Yu'os ma'åse'* Speaker. We will now hear from the Vice Speaker Telena Nelson.

**Vice Speaker Telena C. Nelson:** *Hafa Adai* and good morning. Thank you, Madam Chair and *Hafa Adai* Attorney Gutierrez. I wanted to thank also everyone that came and spoke on your behalf. I feel like I know you now. They kept on mentioning USC and I thought to myself, boy Senator Terlaje I know she went to UCLA so she's probably...

**Dana A. Gutierrez, Esq.:** I hope she won't hold it against me.

**Vice Speaker Telena C. Nelson:** I'm very honored and I am grateful for your service that you have done for our island and they wanted to thank you also for accepting this nomination. I just have two questions and the first one would be, what are the biggest changes you think we need to make sure our justice system?

**Dana A. Gutierrez, Esq., Nominee:** I think when we talk about our justice system, there's a lot of things that are going on and sometimes things are constrained of course by funding. But my experience working at the Judiciary has shown me that the court is already on the path to make changes. When I work there, we were very much involved with pretrial justice reform and looking at ways that we can reduce recidivism. I know that the court has moved away from a one-size-fits-all type of charging system where we how we used to treat people is your charge a certain way, you ended up going to jail or you ended up being incarcerated for a certain. now we have moved towards and evidence-based risk assessment program where we're actually looking at the individual who's coming into the system. We're making informed decisions on whether or not that person should be incarcerated, that person should be put on pretrial release. And you know, in the same vein trying to alleviate what we have over at the Department of Corrections. So, I think that our justice system is already on that path. I think that what we need is of course, the support of the community, the support of the legislature and I think if we can continue to make roadways in that area, we really are onto something. We already can improve our justice system here in Guam.

**Vice Speaker Telena C. Nelson:** Thank you for that. My next question is, how will you work to ensure equality for people of all backgrounds in your courtroom?

**Dana A. Gutierrez, Esq., Nominee:** Sure. When I worked at the court, I was able to work with our interpreter program. I think one of the biggest hurdles, of course, when people entered the justice system is being able to understand what's happening. I think that the court, of course, it's always difficult. We have a very diverse population here in Guam and it's hard to find people who want to serve as court interpreters and I think one of the first things we have to do and I know the Judiciary has been doing this, is to ensure that people who come into the system are able to understand what's happening, that their attorneys are able to meet with them when needed, that they're able to have an interpreter there. And I think that one of the ways that I would try and make sure that people were treated fairly, is to make sure that everyone understood what was happening. Of course, at first. And I think also just my background. I don't know that there would be an opportunity for anybody to be treated differently in the courtroom, at least in my courtroom. And I think that I would treat everybody the same. the way that we're supposed to treat them. They come in; we treat them with respect; we treat them as individuals and we also try to make sure that we treat not just the people coming, in in terms of the people, but also the lawyers- that I have no biases against lawyers, that I treat them all the same when they come into the courtroom. I think those are the ways that I can ensure that I show a quality when I'm practicing on the bench.

**Vice Speaker Telena C. Nelson:** Thank you Madame Chair and thank you Ms. Gutierrez for your acceptance of this nomination and you have my full support. Thank you.

**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** Thanks very much Vice Speaker. We will now hear from our Legislative Secretary, Senator Amanda Shelton.

**Senator Amanda Shelton:** *Hafa Adai* and thank you very much, Madame Chair and congratulations Attorney Gutierrez on your nomination. It was great to hear from all of your friends and colleagues about what an influence you have been and that you've really left the positive mark in every position that you have played, in every place that you've been to help. So, thank you for all of your service along the way. One thing that really stood out to me in everyone's testimony was the word compassion- your passion and compassion

for people that will make you a good judge. So that was, a you know, something very positive to hear and it gave me a lot of confidence that you will be able to carry out the job and do this for the people of Guam. I wanted to give you the opportunity to talk a little bit more about your thoughts on Juvenile Justice Reform. I know that Guam has made a lot of strides in the last couple of years and you being in a family court, if you are to be confirmed, you'll have an active role in Juvenile Justice. Ff you could just share a couple more thoughts.

**Dana A. Gutierrez, Esq., Nominee:** Sure. I know that recently you held an oversight hearing on our Juvenile Justice System and you were able to hear a little bit more about the reform that's happening, not just at the juvenile level but the adult level. A lot of that goes back to what we're calling, evidence-based risk assessment tools. and I think when you have that oversight hearing, I was able to read the transcript of it. We saw that we're really having a decrease in the number of juveniles that are being, I guess you could call them, incarcerated or held at our juvenile facilities in here. And that really opens up the door to allow for more programs for juveniles, right. A lot of times when we're looking at the juveniles, we know that you're at a point in their lives where they probably need more programs ,other ways that we can work with them, in order to assist them, so that they don't go on to become what we call adult offenders. And I think you know we're making strides in that area with the Juvenile Justice Reform. We are using those evidence-based tools, so that we know the risk for those that should be held, as well as those that can be released to their parents perhaps pending any further adjudication. And we can try to utilize the programs and put more programs in place. For example, you know I've been on the SHRM Board for many years and I'm thinking there might be some room there for some type of partnership with organizations like SHRM, so that we can help those in the juvenile system to try and increase the life skills that we're trying to teach them; things like, how to do a resume, how to do a job interview. Those are things that I'm interested in and perhaps partnering up with our people, I know the Chamber does a lot for our adult drug court and I'm thinking, you know, through my connections, ensuring perhaps that might be a way that we can help the juvenile system as well.

**Senator Amanda Shelton:** Thank you. Thank you very much. I love that idea and I'd love to see that happen for our young people, to provide any additional services that we can. I really appreciate that and Attorney Gutierrez, I just want you to know that I received multiple messages from your family members, from your friends, all asking me to support your confirmation today. I'm very pleased with all of the testimony that was presented today and all of the people who I find trusted leaders and voices in our community, who

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has really given you all the support that we we're all expecting today. And so, I look forward to your confirmation.

**Dana A. Gutierrez, Esq., Nominee:** Thank you.

**Chairperson Therese M. Terlaje:** Thank you very much Senator Shelton. We will now hear from our Minority Leader, Senator Telo Taitague.

**Senator Telo Taitague:** *Si Yu'os ma'âse'* Madame Chair. Oh Dana, I love that smile. Thank you. We've known each other for quite some time and we've been through some trials and tribulations with friends that passed away who I know, she would be here today by being the first to put up her hand to testify on your behalf. Well, congratulations, congratulations on this nomination first, my friend, now your honor. And you know Hannah and I are close. Your sister loves you so much and I admire your whole entire family. I've always been in awe of you and I think you're going to make an excellent judge. I really do. This job...some people thinking, oh she's going to come to become a judge. It's a tough, tough position, really hard. There are things you are going to have to give up in your life and it's sad, but that's the reality of it, of becoming a judge. You have my support and anything I can do to help out at all, I've been a great advocate of the judicial branch. If there's anything I can do, just ask those guys. They'll tell you. Dana congratulations. I wish you the very, very best!

**Dana A. Gutierrez, Esq., Nominee:** Thank you.

**Chairperson Therese M. Terlaje:** Thank you Senator Taitague. We will now hear from Senator Régine Biscoe Lee.

**Senator Régine Biscoe Lee:** Thank you Madame Chair for today's hearing and I also want to thank the Governor and Lieutenant Governor for this nomination and really a huge thank you to everybody who testified, for everybody still hanging in with us after a few hours of testimony, and last but certainly not least, *Si Yu'os ma'âse'* to Ms. Gutierrez for accepting this nomination and to all your friends and family for providing support throughout your career and today as you're considered for this very important position.

I just want to put on the record that I have had the pleasure of knowing Dana both personally and professionally over the last however many years and I agree with a lot of a testimony. I think Dana is very compassionate. She is passionate about the rule of law. I've known her to be analytical, sound, a practical decision maker. Some other folks have mentioned that she's fair but she's decisive and also her service in the community. Some of the most recent interactions that I've had with Dana is through SHRM. We worked together closely for our first update on Workers Compensation in over 30 years. Dana was a really integral to that effort. She attended a lot of our meetings and she was just really helpful to get everybody on the same page, in terms of what our existing law was, what some of the other states and territories are doing, and how we can improve things for the people of Guam. So, Dana, with that I did want to ask you a few questions. I think Senator Shelton touched on some Juvenile Justice issues and I wanted to talk with you a little bit about violent crime and particularly, youth violence. I think it's certainly perceived to be at a crisis level by many experts today. And so, I wanted to ask you, what if any do you or, what do you believe the appropriate role for the Judiciary is in addressing this crisis of violent crime in our community?

**Dana A. Gutierrez, Esq., Nominee:** Maybe I can ask you just to refine, when you say the judiciaries roll, I guess our roll once people come into the system is what you're asking us? If that's what you're saying?

**Senator Régine Biscoe Lee:** Yes.

**Dana A. Gutierrez, Esq., Nominee:** Of course, once they come into the system, I think I kind of touched on it, right. You're talking about violent crime and the only way that we can measure whether somebody might be a risk or high-risk is to do what they have been doing already at the Judiciary, which is using their evidence-based tools and doing risk assessments and trying to figure out the type of individuals that we need right to work perhaps, keep incarcerated, maybe there's a reason why we don't release them back into the streets- that type of thing. But once they're in the system, we need to figure out ways that we can assist them. And I really do believe my experience working in the past with DYA, Sanctuary, a lot of times not having the type of programs in place to help them. There's always going to be some type of funding issue that we're going to need to overcome. But you're right. There are ways that we need to assist them whether it's through therapy, family therapy. We have a lack of qualified therapists are on island, trying to encourage that, encourage people to work at the Judiciary as interns and perhaps bringing them back later on, I think you know we need to have the fundamental people in place in order to

help are youth. I think if we can do that, the Judiciary of course is always a leader in that area. But I think you know having those things in place can very much so benefit are youth as well as try to improve the system that we have in place.

**Senator Régine Biscoe Lee:** I agree and I feel, I'm confident that should you be confirmed you'll be a leader in the courts in this area and really helping us to improve. I know many folks have touched on your history with Law Week and all of the different roles that you played trying to bring Law Week to Guam and helping us receive national recognition for our Law Week programs. I wanted to ask you in addition to Law Week, do you feel that judges have an obligation to provide public understanding of the courts? You were talking a little bit about interpretation issues and communication. So, how can judges carry out the obligation to improve public understanding of the court system and the judicial system?

**Dana A. Gutierrez, Esq., Nominee:** I think you really hit the nail on the head. I think that our Law Week committee, it's not just the Judiciary but we are in partnership with the Guam Bar Association and the District Court of Guam, and I think through that, through all three of the organizations that work on it, I think the obligation is shared amongst our federal court, our local Court, as well as our Guam Bar. We really look to our attorneys to perform pro bono work if possible. As well as to serve on committees that are able to reach out to our community. I think through Law Week we've really done that. We really made an effort. We are an award-winning, an APA winning Law Week committee. We have won numerous times the national award and I mean it can't just be of course that one week, right. it's going to take a concerted effort and I don't know so much that it's the judge's obligation per se but more so, you know the court does do outreach. I know that we've tried to make the Judiciary more accessible to people by trying to put forms in place for certain things like guardianships and other types of services or cases that can happen without the involvement of an attorney. So, I think we've done that, but of course there's always room to improve and I think once I make it over there to the Judiciary, I'll be sure to continue the work that I have been doing already and I will first, be an advocate in any way that we can make the courts more accessible.

**Senator Régine Biscoe Lee:** Thanks Dana. Madame Chair I just have one last question. So Dana if you could for the committee, please describe one instance in which you faced an ethical dilemma and how you were able to resolve it?



**Dana A. Gutierrez, Esq., Nominee:** Well I think any time as an attorney we face ethical dilemmas, we always have to go back and look at our rules, right? We're all rule-based. There are statutes that control how attorneys can act. And if I'm faced with an ethical dilemma, I have to first consult with our ethical rules just as I would if I was a Judicial officer. We look to those rules and we follow those rules. There's always a process that's in place. We look to it; we review the facts against what the rules are that we have in place and we make decisions accordingly. So, when I've been faced with an ethical dilemma, I've done what attorneys are supposed to do. I've consulted our rules, the case law and anything that I can get guidance from and after that I've made a decision on the best way to proceed.

**Senator Régine Biscoe Lee:** Dana thanks again for your time, for accepting this nomination. I certainly want to thank your parents and David and your entire family for all of their support to get you to this point and you absolutely have my support. *Si Yu'os ma'åse'.*

**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** Thank you Senator Lee. Senator Joseph Augustin you are next.

**Senator Joe San Agustin:** Thank you Madame Chair. You know Dana, I heard the Speaker say, "Here comes a new judge." It brought back memories to Joe & Flo's. For some of you that may have gone there, the song was, *Here Comes the Judge* and that was in '68. So, for some of you maybe you were missing then. You know Dana, I looked at your packet, the testimony of everyone that was presented on your behalf were great. You've answered all the questions. I told you in person that I'm looking at voting for your confirmation to judge and then I'll send you the song, 'Here Comes the Judge.' Enjoy yourself and I thank you Madame Chair.

**Dana A. Gutierrez, Esq., Nominee:** Thank you.

**Chairperson Therese M. Terlaje:** Senator San Agustin, there is an interruption I think you need to go back.

**Senator Joe San Agustin:** To the beginning? Okay, so you want me to go back to 1968? Wow, we're aging ourselves. But anyway, Dana congratulations and thank you for accepting the nomination. I look forward to seeing you on the judicial bench. I just listening and seeing and hope I don't have to appear in your in your courtroom. Have a nice day.

**Chairperson Therese M. Terlaje:** If he appears in your court room let him sing the song, okay? Senator Kelly Marsh Taitano, you are recognized.

**Senator Kelly Marsh Taitano:** *Si Yu'os ma'åse'* Madame Chair. This has really been quit a nomination hearing. It's not very often that we have one with quite as much testimony and all of it positive. One fellow tried to come up with something that wasn't, but even he couldn't come up with something. I do want to say to Ms. Gutierrez along with the others *Si Yu'os ma'åse'* for accepting the nomination. It's going to be your first time to be a judge and therefore it was really that much more important to hear all of that testimony from people who've known you for decades. And as has been mentioned, the words that kept coming up again and again about your high set of Ethics, your compassion, your passion, your commitment, your tenacity- that's a favorite for me because I have a tenacious streak as well. And just so many positive qualities about your command of your trade as well as all the other aspects that come along with being a good judge and having the right temperament as Attorney Camacho was saying. When I looked through your packet and we had a chance to sit down and talk about your nomination, it was really important to hear that you had a lot of experience for various types of work. But also, carrying out the legal profession here on Guam and in Hawaii as well. and I say that I think that's important because we have some unique situations here and it doesn't mean that others can't come in and fit in of course as well and do well. But I think that means maybe you come into the role with a lot of understanding and a lot of background and experience already. There are unique aspects and I imagine in some ways it shows up in the law and in the courtrooms, or in just in dealing with our community. We are part of the U.S. but we are a territory within the US political system. We are an indigenous homeland. You did mention that we have a very mixed demographics and that continues to, some of it continues to shift and increase among other issues that maybe inform some of the way that the courts and the judges carry out their work. I think also having the understandings that you do, by being hands on and having worked for so long within our community, that really contributes to you having a good understanding of the social ills that cause some of the reasons why someone might end up in the court system. So, you had also mentioned that you worked with the Judiciary for a couple of years and it helped you understand not only what needed to be done in the courts and dealing with the situations there but understanding some of

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the courts challenges and the needs of the Court. Some of the administrative issues that might come. One of the Senators prior, she had mentioned some of the outreach activities, so again you were able to speak about here and at that meeting some of that understanding that you have gained over the years. So, with that, I'm not sure that you'll have an example to share but perhaps you will. If you have an example of something that I guess maybe illustrates that understanding of how things work here in Guam with our community members and how it might be a bit different because of our demographics being the way that they are or our political system being the way that it is, nested within the larger political system. If you have anything that just illustrates some of your experience with those kinds of unique issues that we have.

**Dana A. Gutierrez, Esq., Nominee:** Yeah, I think you had mentioned to me that we had talked about the court interpreter program and we had talked about the fact that over time the population on Guam has changed and when we were talking, we said we have all different types of people coming into our court system now. It's not just people from the outer Islands. We have people who are now Russian. We've needed an Italian interpreter. I think knowing that sometimes there is challenges at the court because keeping qualified interpreters on staff is difficult. People come and go. People are not available. It becomes even more difficult when we have multiple defendants in a case that are all of the same nationality and they require interpreters. So, I think being sensitive to the community and the changing community, I know the court as I mentioned in my remarks is very dynamic and I think we have a lot of good people at the court that are monitoring those things. But you're right, it's going to take a concerted effort on the Court's behalf to be able to respond to things that happened in the community and or the people that are coming before the court. So I think the court interpreter program is a good example of ways in which the Judiciary has been very responsive to the changing demographics that we have here in Guam.

**Senator Kelly Marsh Taitano:** *Si Yu'os ma'åse'* for that answer. I'm remembering also that we had discussed the therapeutic courts and am I had to go through what you've provided already and through that discussion I really appreciated your knowledge of it and appreciation of the therapeutic courts. It does seem that they are making some real difference and I think that as a community, is what we want. We want a difference so that our community is just safer and people's needs are being met in the court system and in the community that deals with people both in and out of the court system. So, I appreciate that as well and I look forward to further supporting your nomination as it goes forward. *Si Yu'os ma'åse'* Madame Chair.

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our community is just safer and people's needs are being met in the court system and in the community that deals with people both in and out of the court system. So, I appreciate that as well and I look forward to further supporting your nomination as it goes forward. *Si yu'os ma'åse'* Madame Chair.

**Chairperson Therese M. Terlaje:** Thank you very much Senator Marsh Taitano. Now we will hear from Senator Mary Torres.

**Senator Mary Camacho Torres:** Thank you Madame Chair. Dana, I'm so proud, as your family must be, to sit here and listen to the testimony and listen also to your testimony before this Committee. It is indeed a distinct honor and privilege to be nominated to the bench and I think that you especially come well qualified because you've been able to garner trust on many facets in the community; in your involvement with SHRM; in your involvement with the Law Week committee, which now seems to be the Law Month Committee, of which I've been intimately involved because of the fact that my husband stood this committee up perhaps 14 years ago, 13 years ago. I wanted to ask you though, as you begin to contemplate going onto the bench, what would be your words of encouragement or advice to this committee as policymakers about restorative justice and the rehabilitative court systems, about the court programs that we have right now knowing that you will likely take on family court and other types of matters? What would your advice be to us about laws and policies with regard to restorative justice and rehabilitative courts?

**Dana A. Gutierrez, Esq., Nominee:** I think we know that the legislature makes the laws but I think from the legislative perspective, I think with therapeutic courts and you know, these are new courts for us and Guam. They've been here but I think really the push for them, it's kind of relatively new and I think as legislators we'd ask for patience on the side of our legislature. I know a lot of times with these courts there's a lot of wanting to have immediate results or to have immediate demographics or facts showing that yes, this is working, this is not working and I think we need the legislature to understand that these courts are still evolving here in Guam. I think that their new for us. We're still trying to figure out ways to make them better. Of course, funding is always an issue with courts and having therapeutic courts. They do take a lot more time than just having a regular court. There's a lot more interaction with case workers. There's more interaction with different segments of the judicial system. We bring them together. We have to have case meetings. We have to meet with caseworkers, because we're really trying to put in place the system where it's somewhat of a rehabilitation system as just opposed to a punitive system. so, I

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**Senator Mary Camacho Torres:** Thank you and I have one other thing I'd like to add. I'd like to contribute the Luck of the Irish to you and to say to you, good luck and go Irish!

**Dana A. Gutierrez, Esq., Nominee:** I know that Justice Torres put you up to that.

**Senator Mary Camacho Torres:** This is my personal friend so this was my doing. Thank you.

**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** Thank you Senator Torres. We will now hear from Senator Pedro Terlaje.

**Senator Jose "Pedro" Terlaje:** Thank you very much Madame Chair. I want to thank the Governor and the Lieutenant Governor for the nomination for Dana to be the next one on the bench. Knowing Dana and her family, I know that she was raised in an environment of love respect and the complete spirit of *Inafamaolek*. And you know my wife always reminded me, she constantly reminding me of Dana's passion and complete professional work ethic along with great knowledge of the rule of law. She's always telling me, "that lady's a smart lady." I said, "Okay, I agree. Okay, tell me that again tomorrow." I know Dana is a person with great love of being a Chamorro and I know she'll never forget where she comes from. And that was yesterday when I talked to Dana and I told her that for you coming to my office, I do respect that and I do appreciate what you're doing. I told her I'm giving her my support. Dana has that character of *Ina'guaiya*. That's what I like about Dana and the family. All those who expressed their good views for Dana is just overwhelming. I can trustingly say that Dana is on her way to the bench.

I just want to ask you one question that I've always thought about regarding the overcrowding at DOC. I kind of just sat down and said the only way that we can reduce overcrowding at DOC is maybe to come up with some kind of an alternative sentencing for misdemeanor and below, to release those people, send them home and assign them to let's say, DPW, Parks and Rec, to do work and their time spent outside working for the government of the people maybe versus their time in jail and let me end it with this, maybe we can reduce overcrowding. I know there's ways to reduce overcrowding at DOC and I know that you will probably be working on that and I ask you to please work on. I want to

thank you for taking the challenge because I know being a judge is not is not easy. Dana you're on your way to the bench and I'm telling you right now the testimony that was presented in regards to your nomination to confirmation, it's overwhelming and I know that you're going to come out ahead. Thank you very much.

**Chairperson Therese M. Terlaje:** Thank you very much Senator Terlaje. We will now hear from Senator James Moylan.

**Senator James C. Moylan:** Thank you Madame Chair and congratulations Dana. I've heard the testimonies. I have no questions, I'm anxious for you to get to work because we have a lot of cases waiting. As quickly as you want to reduce the population of DOC, there's probably a lot more we need to put in. So, looking forward to getting to work as quick as possible. Thank you. Congratulations.

**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** Thank you Senator Moylan. Senator Louise Muña, you are recognized.

**Senator Louise Muña:** Hi, thank you Madame Chair. Hi Dana. I actually had to leave my glasses on because you keep moving in my zoom screen. So, I'm not sure where you are and, there you are now. So, I just wanted to keep my glasses on to make sure I'm pin pointing you out for sure. In a prior conversation that you to this is confirmation hearing, I asked you if you were ready for this Dana Gutierrez roasting because that's really what it kind of is like. Everybody is talking really highly of you and I knew that that would be the case. I didn't think that there would be any ill comments or any other controversial comments towards you. but I got excited when I saw Andrew Gayle and he said he was going to say something bad and I was like, there it is but it just didn't happen. When mentioned Radiance and Jo & Flo's together, you dated me but it's okay I take comfort in knowing that you're not far behind me. Along with your parents, we are very proud of you, all of us. All of your friends, all of your family members and I'm sure that they your entire family is very proud of you. And we're very happy that you're moving on up, you know like the Jefferson's, your 'movin on up.' I want to congratulate you again on your nomination and look forward to supporting you for your confirmation. Congratulations Dana.

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**Dana A. Gutierrez, Esq., Nominee:** Thank you.

**Chairperson Therese M. Terlaje:** Thank you Senator Muña. Senator Castro, you are recognized.

**Senator Wil Castro:** *Hafa Adai* Dana. Thank you for accepting the nomination. It's indeed an honor for me to be a part of the legislature, to be here at this point in time in your life during your appointment, and now the confirmation process. I truly believe you are most deserving of such a unique privilege. I've known Dana, Madame Chair, for let's say the better part of 17 years. Brief interactions when she was employed at the University of Guam at the time and I want to tell you or tell the nominee that I want to thank you for your commitment to the University. Every time I ran into you Dana, then and now, you've been authentic and I appreciate that. You certainly can't fake authenticity and an authentic person. Clearly your resume shows that you're highly qualified. Many have already said that you're a daughter of Guam that we can all be proud of and you're well-liked by people that I highly respect in the legal community. For example, Jay Arriola. I'm sure he didn't think I was going to mention his name but he sent me a copy of his testimony in support of your nomination to confirmation.

I can also appreciate you giving back to the island your Honor, your future Honor, in terms of the Girl Scouts Organization. Thank you for that as well. Always good to have our leaders back in public service giving freely of their time. So, everything that's been said, all that has been submitted is testimony to your character and your professionalism, your overall disposition as a member of this awesome community. But aside from the seriousness of my support and vote of confidence for your confirmation, more in line with the previous speaker Senator Louise from the Radiance and Senator Joe San Agustin from, I don't know, a hundred years ago- aligned with Joe & Flo's, I got to say if it wasn't for Joe & Flo's, I wouldn't have known Condition 4 and that song, "On and on." I love that song and thank you for that. It has a lot of memories for me so thank you and God bless you. You have my vote of confidence.

**Dana A. Gutierrez, Esq., Nominee:** Thank you Senator.

**Chairperson Therese M. Terlaje:** Thank you very much Senator Castro. I think I've called on all my colleagues. So, if I may Dana, I'm going to ask you a couple questions also. So,

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your experience in especially labor, employment and corporate law is renowned on Guam. You have a great reputation. Many have testified to that today. You're called on by professional associations as the expert on many occasions and even by the legislature. We call on you when we need help in those areas. You're going to be appointed to be the seventh judge. Seven out of seven right now. Do you think you will be able to serve as a judge on all different types of cases?

**Dana A. Gutierrez, Esq., Nominee:** Sure. Yes. I think for many of us who were in private practice, we used to do court appointments, when I first started. So, I've done criminal cases and I've done juvenile cases as well. Both Juvenile delinquency cases. I've done family court cases. During my practice, I know I've been exposed to all different types of areas of the law, both in the what we call government processes. I've represented government agencies as well as private or his clients. I do feel that I have the skills necessary to take on all the general jurisdiction cases which involve probate, domestic cases as well as criminal cases, juvenile. I do believe that I have the skills. Not everyone is born to be a judge. I'm sure that there is some on-the-job training that all judges go through. When they first start, we have to change our mindset from being practitioners to now judicial officer. so, there is going to be maybe some growing pains of course, that I'll go through. But I know that I have the skills and knowledge necessary to take on the docket that I'll be assigned to, if I am confirmed by the legislature, start at the Judiciary.

**Chairperson Therese M. Terlaje:** Thank you. I look forward to that and also, we know that the judges, in addition to their own dockets and all the court cases and the training that they must undergo in order to do the training, you know the court is evolving. So, as you said we have therapeutic courts now, they have to train for that and then I've seen this, at the judges of the justices are actually very involved with administration of the courts. They get involved in the new programs and their relationships with the Bar, with the community and we know that the court is really an integral part of our law enforcement system here on Guam and we need it to work. We need the court to do the best it can do and every single part of that system. I've just known because I'm also the Committee Chair with oversight of the court, that we have seen some challenges. We need a little bit more coordination in our government. I think you know between law enforcement agencies and the Court's role in helping those. So, I know that you've been very active as a Bar member, as a leader in the Bar actually, and you know that's one thing I'm very confident you'll fit right in in terms of getting to work on those types of areas also. Maybe the non-judicial officer areas. But the court Administration and the court community areas. Thank you for all your service in that regard. As a Bar member, I want to thank you for that too.

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I recognize that we have, for all of those listening, the Bar Association has received many awards for their Law Week activities and plans and their community outreach. So that's a lot in large part to the leaders on our Guam Bar including Attorney Gutierrez. What do you intend to do with your current involvement in the Solid Waste Authority and SHRM, may I ask?

**Dana A. Gutierrez, Esq., Nominee:** I love serving on both boards but unfortunately, I've informed both the Guam Solid Waste as well as the SHRM board that I'm going to have to be resigning, if I'm confirmed. So, I won't be able to be involved in the day to day. But I hope they'll call me, at least SHRM will call me, every now and then perhaps to speak on something because I do like the present and I do like to do a lot of public speaking. Its bittersweet for me on both, I really think the Guam Solid Waste Authority board is a great board, dealing with many issues. We have a great chairman and great members. But unfortunately, I will have to resign from both.

**Chairperson Therese M. Terlaje:** All right. I know that becoming a judge really is going to change your life and it comes with some restrictions to avoid undue influence in the cases that might come before you. Judges are somewhat restricted from you know ... they are absolutely restricted from political activity. That's a big thing here on Guam. Our families are very politically connected sometimes and it's going to affect perhaps your involvement with the Guam Bar and you know you've made so many friends in the Guam Bar and professional friends, professional associations but again, how do you think you would be able handle those types of conflicts? Even the places that you have worked. You worked in several areas, you represented many clients and you know, it's great experience for a judge but how will you handle the potential conflicts?

**Dana A. Gutierrez, Esq., Nominee:** Yes, so of course, I think coming from a small island and with a small Guam Bar there's always potential conflicts of interest. But I think that for all of us who come from private practice, the only thing that we can do and the only thing that can guide us is that we really look at the canons of judicial ethics as contained in our Model Code of Judicial Conduct, and we follow what that requires us to do. We identify any type of potential conflicts and we're guided by the rules that we need to follow and we follow any applicable rules and statutes. So, that's how I would handle the conflicts of interest. I don't think I'm any different than any other nominee that's come before the legislature. There's going to be some bumps in the road terms of, I may have some conflicts initially that I can't overcome just because I am working on certain cases. But other than that, I don't see any that I'll have to do anything different than anyone has in the past.

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**Chairperson Therese M. Terlaje:** Thank you. My colleagues have asked what I feel are very thoughtful questions today. So, I want to thank them for that. Those were some very excellent questions. I'm glad they brought out your philosophy on things, your thoughts, your legal thinking. And also, the testimony has really been excellent. It's really given us a good picture of not just your professional accomplishments and abilities, but those other factors that make a good judge and a lot of them have spoken to those factors. I'm grateful to have that be put on the record.

I just want to conclude by telling you that I'm actually, personally, very honored to be in this position I'm sitting in now, to help with the confirmation of a Chamorro woman lawyer onto the bench on Guam. I want to thank you for all you've done to get to this point and I'm very proud that you're a private practice attorney bringing a lot of experience onto the bench, as to how it is for practicing attorneys and clients. So, I want to thank you again.

I want on the record to thank you for your testimony and accepting this appointment. The mission of our judges and our courts each day, is to strive to ensure fair, impartial and independent administration of justice so that each citizen is treated with respect, dignity and fairness in the application of our laws, and this is not an easy charge. It will affect your entire life. But thank you again for accepting this call to service for our community. I am wishing you the best I will do my part in expediting the committee report. After all the complications we've had along of the way, I'm going to try to expedite this report to get it onto the session agenda soon as possible. If you have any closing statement that you would like to make, you're welcome to do that at this time.

**Dana A. Gutierrez, Esq., Nominee:** I just want to thank everybody for their patience. I know it's unprecedented, I guess, to have a confirmation hearing virtually. But I do thank the Committee and I thank you senator for willing to go forward with the virtual hearing. Other than that, I thank everyone for their patience. I know there was a lot of testimony, but at the same time, I think it really helped to show me just not as a practicing attorney, but also as a person. And I think it was very important for everyone to hear that. so, thank you everyone and I really appreciate it and I do hope that you act on my appointment as soon as possible.

**Chairperson Therese M. Terlaje:** Thank you again. The Chief Justice has told me that because of the pandemic and the emergency, that the courts have been operating on a very limited basis and so there is a little bit of a backlog going on because of that, in addition to

the regular, tremendous amount of cases that go through the court system. They are looking forward to your confirmation, so that you can help them with all of that work.

I want to announce for the community that a transcript of this hearing and the testimony received, and we have I received quite a bit, will be compiled in a Committee Report, which will be published on the Legislature's website, prior to vote on this nominee during a legislative session.

A recording of this hearing will also remain available immediately on the Legislature's YouTube channel. Without further ado, there being no additional individuals to present testimony, this confirmation hearing- the confirmation hearing for Dana A. Gutierrez as Superior Court Judge is now adjourned.

The public hearing was adjourned at 3:31PM.

### III. FINDINGS & RECOMMENDATIONS

The Committee on Justice finds, based on testimony and the extensive investigation report, that Dana A. Gutierrez is in compliance with the following requirements to serve as a Judge of the Superior Court of Guam, pursuant to Title 7, §§ 3109(c), (d) & (e), Title 7, GCA:

- Shall be a United States citizen, a bona-fide resident of Guam for at least five (5) years;
- Shall be in the active practice of law on Guam for a period of seven (7) years before said nomination;
- No Justice or Judge shall, during the term of office, engage in the private practice of law;
- No Justice or Judge shall, during the term of office, run for or hold any other office or position of profit under the United States, any State, Guam or any other political subdivision of the United States. 'Active practice of law' includes time spent as a Justice or Judge on Guam;

Be a member in good standing of the Guam Bar Association;

Not have been convicted of any felony or any misdemeanor involving moral turpitude;

Not be related by blood within the third degree of consanguinity or marriage to a judge or justice of the courts of Guam at the time of his or her initial appointment;

Be subject to the same ethical standards as a Superior Court Justice, to include the Guam Rules for Judicial Disciplinary Enforcement.

The **Committee on Health, Tourism, Historic Preservation, Land and Justice** hereby reports on the appointment of **DANA A. GUTIERREZ** to serve as a **JUDGE** of the **SUPERIOR COURT OF GUAM**, with the recommendation     To do Confirm    .

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Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



## SENATOR THERESE M. TERLAJE

Committee on Health, Tourism, Historic Preservation, Land and Justice  
*I Mina' trentai Singko na Libeslaturan Guåhan*  
35<sup>th</sup> Guam Legislature

### COMMITTEE VOTE SHEET

Nomination of

**Dana A. Gutierrez**

to serve as a Judge of the Superior Court of Guam

	SIGNATURE	TO DO CONFIRM	TO NOT CONFIRM	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
<b>Senator Therese M. Terlaje</b> Chairperson	<i>Therese M. Terlaje</i>	✓				
<b>Senator Sabina Flores Perez</b> Vice Chairperson	E-Vote	✓				
<b>Senator Kelly G. Marsh (Taitano), Ph.D.</b> Member	E-Vote	✓				
<b>Senator James C. Moylan</b> Member	E-Vote	✓				
<b>Senator Louise B. Muña</b> Member	E-Vote	✓				
<b>Vice Speaker Telena C. Nelson</b> Member	E-Vote	✓				
<b>Senator Joe S. San Agustin</b> Member						
<b>Senator Amanda L. Shelton</b> Member	E-Vote	✓				
<b>Senator Mary Camacho Torres</b> Member	E-Vote	✓				

---

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com) | [www.senatorterlaje.com](http://www.senatorterlaje.com)



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Office of Senator Shelton Guam Legislature** <officeofsenatorshelton@guamlegislature.org> Tue, May 26, 2020 at 11:53 AM  
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>  
Cc: Senator Sabina Perez <office@senatorperez.org>, Sabina Perez <sabina@senatorperez.org>, "Sinadora Kelly Marsh (Taitano), PhD." <sinadorakelly@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, James Moylan <senatormoylan@guamlegislature.org>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, "Amanda S. Shelton" <senatorshelton@guamlegislature.org>, "Mary C. Torres" <senatormary@guamlegislature.org>

To confirm.

On Mon, May 25, 2020 at 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

- To Confirm;
- To Not Confirm;
- To Report Out Only
- To Abstain; or
- To Place in Inactive File.

Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

--



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Sabina Perez** <sabina@senatorperez.org>

Tue, May 26, 2020 at 11:40 AM

To: Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

Cc: Senator Sabina Perez &lt;office@senatorperez.org&gt;, "Sinadora Kelly Marsh (Taitano), PhD."

&lt;sinadorakelly@guamlegislature.org&gt;, "Office of Senator Kelly Marsh (Taitano), PhD."

&lt;office.senatorkelly@guamlegislature.org&gt;, James Moylan &lt;senatormoylan@guamlegislature.org&gt;, Senator Louise Borja

Muna &lt;senatorlouise@gmail.com&gt;, Senator Telen Cruz Nelson &lt;senatortcnelson@guamlegislature.org&gt;, "Senator Joe S.

San Agustin" &lt;senatorjoessanagustin@gmail.com&gt;, "Amanda S. Shelton" &lt;senatorshelton@guamlegislature.org&gt;, Office of

Senator Shelton Guam Legislature &lt;officeofsenatorshelton@guamlegislature.org&gt;, "Mary C. Torres"

&lt;senatormary@guamlegislature.org&gt;

To confirm.

On Mon, May 25, 2020 at 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

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- To Not Confirm;
- To Report Out Only
- To Abstain; or
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Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

--

**Office of Senator Therese M. Terlaje**



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

---

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

---

**James Moylan** <senatormoylan@guamlegislature.org>  
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, May 26, 2020 at 9:30 AM

To confirm.

On Mon, May 25, 2020, 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

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- To Abstain; or
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--

**Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina'trentai Singko na Liheslaturan Guåhan*

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, [173 Aspinall Avenue](#), Hagåtña, Guam 96910Mailing address: Guam Congress Building, [163 Chalan Santo Papa](#), Hagåtña, Guam 96910T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)website: [www.senatorterlaje.com](http://www.senatorterlaje.com)





Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Sinadora Kelly Marsh (Taitano), PhD.** <sinadorakelly@guamlegislature.org> Mon, May 25, 2020 at 11:03 PM  
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>  
Cc: Senator Sabina Perez <office@senatorperez.org>, Sabina Perez <sabina@senatorperez.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, James Moylan <senatormoylan@guamlegislature.org>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telena Cruz Nelson <senatorcnelson@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, "Amanda S. Shelton" <senatorshelton@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, "Mary C. Torres" <senatormary@guamlegislature.org>

To confirm.

On Mon, May 25, 2020 at 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

- To Confirm;
- To Not Confirm;
- To Report Out Only
- To Abstain; or
- To Place in Inactive File.

Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

--

**Office of Senator Therese M. Terlaje**



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Louise Muna** <senatorlouise@gmail.com>

Mon, May 25, 2020 at 4:14 PM

To: Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

To Confirm.

On Mon, May 25, 2020, 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

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- To Not Confirm;
- To Report Out Only
- To Abstain; or
- To Place in Inactive File.

Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

--

**Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina'trentai Singko na Liheslaturan Guåhan*

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, [173 Aspinall Avenue](#), Hagåtña, Guam 96910Mailing address: Guam Congress Building, [163 Chalan Santo Papa](#), Hagåtña, Guam 96910T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)website: [www.senatorterlaje.com](http://www.senatorterlaje.com)



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Senator Mary C. Torres** <senatormary@guamlegislature.org>  
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, May 26, 2020 at 9:41 AM

I vote to Confirm.

Mary C. Torres

On Mon, May 25, 2020 at 4:08 PM Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt; wrote:

*Håfa Adai*, Committee Members:Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as a Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

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- To Not Confirm;
- To Report Out Only
- To Abstain; or
- To Place in Inactive File.

Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

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**Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

*I Mina'trentai Singko na Liheslaturan Guåhan*

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, [173 Aspinall Avenue](#), Hagåtña, Guam 96910Mailing address: Guam Congress Building, [163 Chalan Santo Papa](#), Hagåtña, Guam 96910T: (671) 472-3586 F: (671) 989-3590 Email: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)



Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;

**Re: REQUEST FOR E-VOTE: DANA A. GUTIERREZ, JUDGE; SUPERIOR COURT OF GUAM**

1 message

**Office of Vice Speaker Telen Cruz Nelson** <senatorcnelson@guamlegislature.org> Tue, May 26, 2020 at 7:44 AM  
To: "Sinadora Kelly Marsh (Taitano), PhD." <sinadorakelly@guamlegislature.org>  
Cc: "Amanda S. Shelton" <senatorshelton@guamlegislature.org>, James Moylan <senatormoylan@guamlegislature.org>, "Mary C. Torres" <senatormary@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Sabina Perez <sabina@senatorperez.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Sabina Perez <office@senatorperez.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>

To confirm

On Mon, May 25, 2020 at 23:03 Sinadora Kelly Marsh (Taitano), PhD. <sinadorakelly@guamlegislature.org> wrote:  
To confirm.

On Mon, May 25, 2020 at 4:08 PM Senator Therese Terlaje <senatorterlajeguam@gmail.com> wrote:

*Håfa Adai*, Committee Members:

Attached, please find the Committee Report for the appointment of Dana A. Gutierrez, to serve as Judge; Superior Court of Guam.

Please indicate your preferred action, based on the following options:

- To Confirm;
- To Not Confirm;
- To Report Out Only
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- To Place in Inactive File.

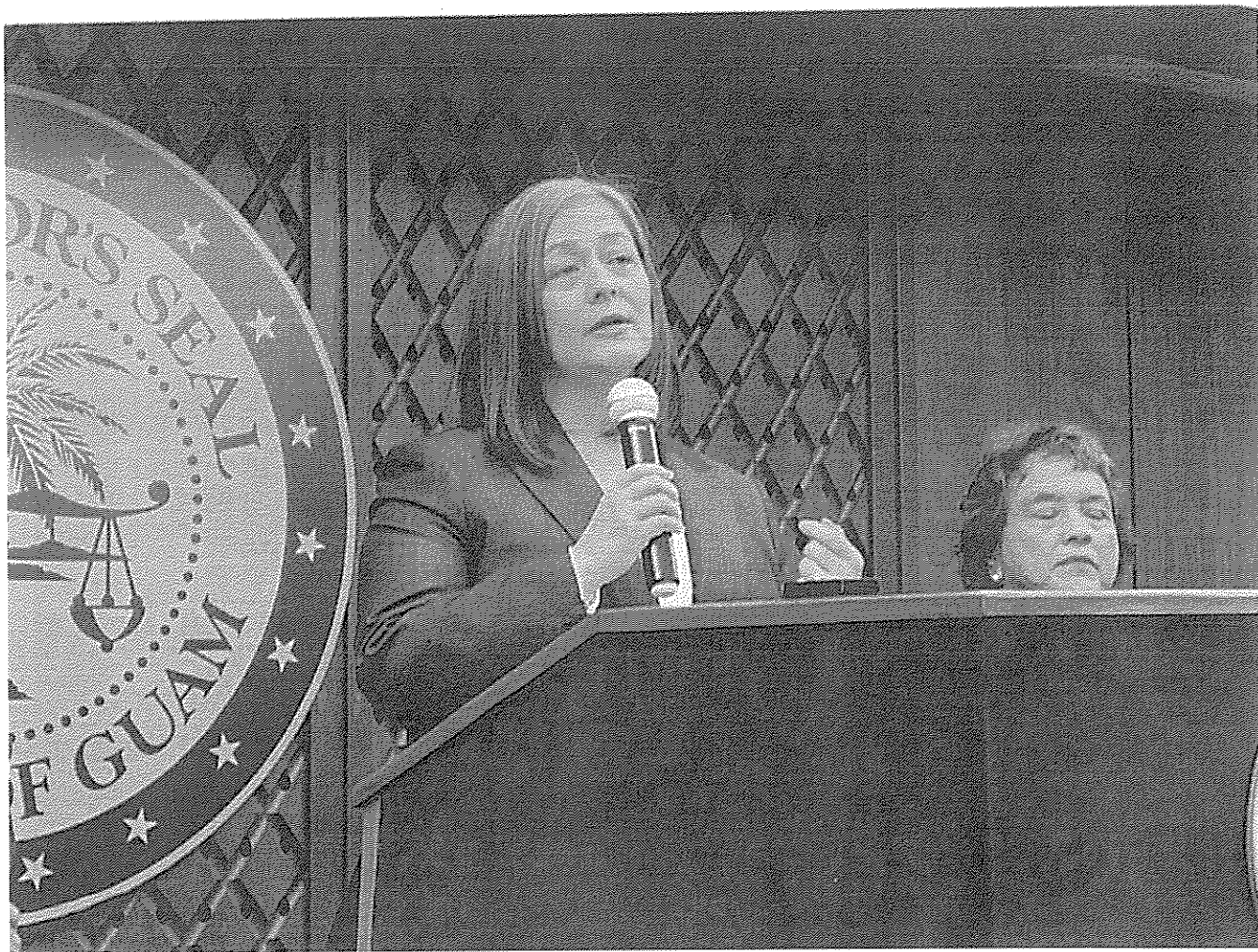
Please submit your response ASAP. Your responses will be logged into the Committee Vote Sheet for **Dana A. Gutierrez** which will be filed with the Committee on Rules.

[https://www.postguam.com/news/local/attorney-dana-gutierrez-tapped-to-serve-as-superior-court-judge/article\\_d2cb0a86-0a62-11ea-ab08-9b546766204f.html](https://www.postguam.com/news/local/attorney-dana-gutierrez-tapped-to-serve-as-superior-court-judge/article_d2cb0a86-0a62-11ea-ab08-9b546766204f.html)

## Attorney Dana Gutierrez tapped to serve as Superior Court judge

DAILY POST STAFF

NOV 19, 2019



MINDY AGUON

Gov. Lou Leon Guerrero has tapped Attorney Dana Gutierrez to serve as a judge on the Superior Court bench.

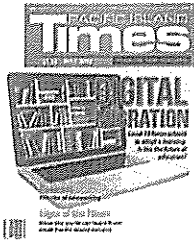
"I've always believed that public service is a privilege that should not be taken lightly," Gutierrez said during a press conference at Adelup Tuesday morning.

Chief Justice Katherine Maraman supported the nomination of Gutierrez.

“There is no greater testament of her legal acumen than a vote of confidence from fellow attorneys. Like her peers in the legal community, I have full confidence in Dana’s ability to serve our people as a Superior Court Judge,” stated Maraman. “Dana is intelligent, conscientious in her work ethic and has an impressive array of legal experience. Additionally, her service as Director of Policy Planning and Community Relations here at the Judiciary was significant. I am certain that Dana’s record as an attorney and her contributions to this community will serve our people well in her capacity as a Superior Court Judge.”

Gutierrez's nomination will require legislative approval.

If confirmed by the legislature, Gutierrez would be the eighth judge of the Superior Court to assist with the growing caseload of civil and criminal cases.



Law

## Dana Gutierrez named Superior Court judge

November 19, 2019 | By Alex J. Rhowuniong



*Gov. Lou Leon Guerrero stands next to newly appointed Superior Court Judge Dana Gutierrez after a press conference in Adelup on Nov. 19, 2019. Photo by Alex Rhowuniong*

*(Updated Nov. 20, 2019)*

Gov. Lou Leon Guerrero on Tuesday appointed attorney Dana A. Gutierrez of Calvo Fisher & Jacob L.L.P to serve as Eighth Judge of the Superior Court of Guam.

Born and raised on Guam, Gutierrez graduated from the University of Southern California Gould School of Law in 1997. She graduated magna cum laude from the University of Southern California in 1993.

Gutierrez practices primarily in the areas of labor and employment law, business planning, corporate governance and regulatory compliance. Her practice includes counseling and defending employers in all aspects of employment law, including wrongful discharge, discrimination and harassment claims; labor and employment law compliance; wage and hour; personnel management and training; and safety and health.

"Attorney Dana Gutierrez possesses judicial temperament--a very crucial requirement for me," the governor said.

She added that Gutierrez's temperament--coupled with her willingness to serve, ethical grounding, intelligence, education, courage and integrity--has helped set her apart from a number of candidates the Governor vetted.

"These qualities will help Gutierrez in her new role to "ensure fairness, dispense justice and be a good judge," the governor said.

Turning to the incoming judge on her left, next to the podium, the governor said: "Dana we are proud of your accomplishments, and we look forward to you assuming your role as Guam's next Superior court's judge. We know that you will do your part to administer justice fairly and equally."

"I am humbled by Gov. Leon Guerrero's nomination, and for the opportunity to serve the people of Guam and the island that I love," Gutierrez began when she finally stood beaming at the podium. "They say it takes a village to raise a child. And in my case, it's certainly true. I would not be standing here without the unconditional support and love of my family and friends; as well as the mentorship and guidance that I've received from my colleagues throughout the 22 years that I've been practicing law."

Gutierrez also said she has always believed that public service is a privilege. And it should neither be taken for granted, nor taken lightly. So each time she takes the bench, if confirmed; she is going to conduct herself "with fairness, open-mindedness and with the commitment to

justice.”

Born and raised in Agaña Heights, Gutierrez is the daughter of Roland and Anne Gutierrez. The 48-year old is a product of Guam's both public and private school systems. She began her academic pursuit at Agaña Heights elementary, then went up to Agueda Johnston middle in Ordot before coming back down to Bishop Baumgartner Jr. High in Sinajan; known today as Bishop Baumgartner Memorial Catholic School.

Gutierrez is a frequent presenter on employment issues for the Society of Human Resource Management (SHRM) Guam Chapter. She currently serves as president-elect for the SHRM Guam Chapter.

Chief Justice Katherine A. Maraman issued the following statement regarding Gutierrez's appointment.

“There is no greater testament of her legal acumen than a vote of confidence from fellow attorneys. Like her peers in the legal community, I have full confidence in Dana's ability to serve our people as a Superior Court Judge. Dana is intelligent, conscientious in her work ethic and has an impressive array of legal experience. Additionally, her service as Director of Policy Planning and Community Relations here at the Judiciary was significant. I am certain that Dana's record as an attorney and her contributions to this community will serve our people well in her capacity as a Superior Court Judge.”

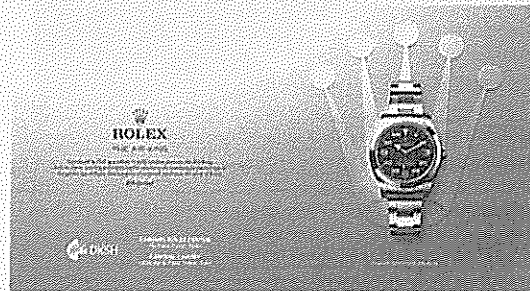
“After vetting a list of recommended candidates from the Guam Bar Association, a series of interviews, and a great deal of thought—I am proud to appoint Attorney Dana Gutierrez to serve as a Superior Court Judge,” Leon Guerrero said.

“Attorney Dana Gutierrez possesses the judicial temperament, ethical grounding, intelligence, education, courage and integrity to ensure fairness, dispense justice, and be a good judge.”

“I have had the opportunity to work with Dana during my time at the Judiciary. I witnessed how hard she worked and the diligence she put into everything she did. I am confident in her abilities and I know that her superior moral character will help guide her to administer the kind of justice our island deserves,” added Lt. Gov. Joshua Tenorio.

Gutierrez is the daughter of Roland and Annie Gutierrez and is married to David Hurchanik.

She attended Agaña Heights Elementary School, Agueda I. Johnston Middle School, and Bishop Baumgartner Junior High School. After graduating from the Academy of Our Lady of Guam, she left Guam to complete undergraduate studies and law school in Los Angeles, California. She received her Bachelor of Arts in Political Science and East Asian Area Studies from the University of Southern California, and her Juris Doctorate from the University of Southern California School of Law.



Gutierrez has over 20 years of experience working in the private and public sectors, serving as counsel to large local and international companies as well as numerous Government of Guam agencies and boards.

She has particular expertise in labor and employment law, commercial and transactional law, with a focus on business planning, corporate governance and regulatory compliance. After law school, Ms. Gutierrez began her career in private practice as an associate with Carlsmith Ball LLP, later becoming a partner at Mair, Mair, Spade & Thompson and at Thompson, Gutierrez & Alcantara.

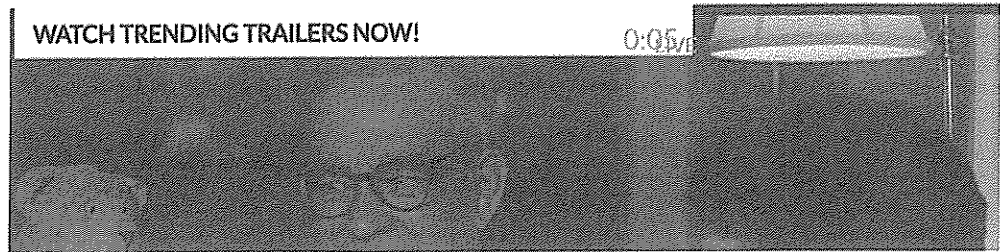
Gutierrez has also worked in the public sector at the University of Guam and recently served as the Director of Policy, Planning and Community Relations at the Judiciary of Guam. She has volunteered her time in service of the Society for Human Resource Management, the Guam Girl Scouts and the Guam Young Professionals. She has been an active member of the Guam Bar's law works Committee. She is a volunteer member of the Guam Public Library System Board, and the Guam Solid Waste Authority Board which worked its way out of federal receivership.

“She is the happiest girl in the world,” said husband David Hurchanik, tearing up, as he stood watching his wife, Dana Gutierrez, from the middle of the press conference room in Adelup during a ceremony Tuesday.

*In an earlier version of this story, we mistakenly identified Dana as the daughter of former Gov. Carl Gutierrez. Our sincere apologies*

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## Governor appoints Dana Gutierrez as Superior Court judge, requiring legislative approval

Haidee Eugenio Gilbert, Pacific Daily News Published 3:25 p.m. ChT Nov. 19, 2019



Judge-Designee Dana Gutierrez gestures as she addresses the crowd at Adelup on Nov. 19, 2019, while Gov. Lou Leon Guerrero, right, and Lt. Gov. Josh Tenorio, left, look on at a ceremony wherein the governor announced her appointment of Gutierrez to serve as an 8th judge in the Superior Court of Guam. (Photo: Haidee Eugenio Gilbert)

Gov. Lou Leon Guerrero on Tuesday appointed attorney Dana Gutierrez to serve as a judge in the Superior Court of Guam.

If confirmed by the Legislature, Gutierrez will become the eighth member of the local court to preside over civil and criminal cases, the governor said.

Gutierrez is Leon Guerrero's first judicial nominee.

At a ceremony at Adelup, the governor announced that Gutierrez is the first Democrat judicial nominee in 18 years.

"Attorney Dana Gutierrez possesses the judicial temperament, that was very crucial requirement for me, ethical grounding, intelligence, education, courage and integrity," the governor said, which she said will help ensure fairness in dispensing justice.

Gutierrez, born and raised on Guam, previously was with Calvo Fisher & Jacob LLP, "practicing primarily in the areas of labor and employment law, business planning, corporate governance and regulatory compliance," the law firm says on its website.

She also worked at the University of Guam and served as director of policy planning and community relations at the Judiciary of Guam, and was active in volunteer work.

The governor said under Gutierrez's leadership of the Guam Solid Waste Authority board, the agency "worked its way out of federal receivership."

Gutierrez said she's humbled for the governor and lieutenant governor's appointment, and is grateful for the opportunity to continue to serve Guam.

"I have always believed that public service is a privilege, a privilege that should not be taken for granted or lightly. When I met with governor, she emphasized to me that I am her first judicial nominee. I take that to heart," she said.

Gutierrez told the crowd at Adelup, including her immediate family and colleagues, that she will always conduct herself "with fairness, open-mindedness and with commitment to justice."

"I would not be standing here without the unconditional love and support of my family and friends, as well as the mentorship and guidance that I have received from my colleagues throughout the 22 years that I have been practicing law," she said.

Lt. Gov. Joshua Tenorio said the governor's appointment letter of Gutierrez will be sent to the Legislature, which will then have to conduct a public hearing before moving forward on voting.

The administration expects it will take quite some time before Gutierrez sits on the bench, he said.

Leon Guerrero said the judiciary won't need more money to hire Gutierrez. She explained that the appointment was actually held off until the fiscal year budget was passed.

Chief Justice Katherine A. Maraman on Tuesday said there is no greater testament of Gutierrez's legal acumen than a vote of confidence from fellow attorneys.

"Like her peers in the legal community, I have full confidence in Dana's ability to serve our people as a Superior Court Judge," Maraman said in a statement. "Dana is intelligent, conscientious in her work ethic and has an impressive array of legal experience."

Maraman also said Gutierrez's service as director of Policy Planning and Community Relations at the Judiciary was significant.

"I am certain that Dana's record as an attorney and her contributions to this community will serve our people well in her capacity as a Superior Court Judge," she said.

**Reporter Haidee Eugenio Gilbert covers Guam's Catholic church issues, government, business and more. Follow her on Twitter @haidee\_eugenio.**

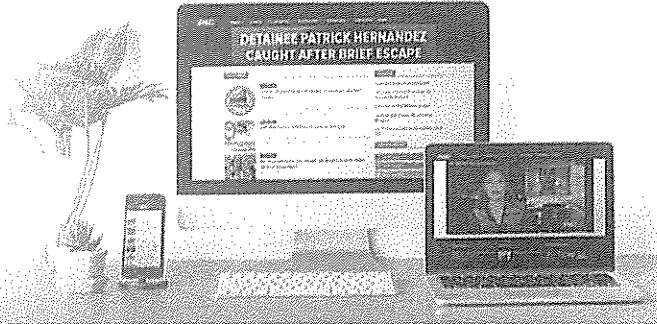
Read or Share this story: <https://www.guampdn.com/story/news/2019/11/19/governor-appoints-dana-gutierrez-serve-8th-superior-court-judge/4233828002/>

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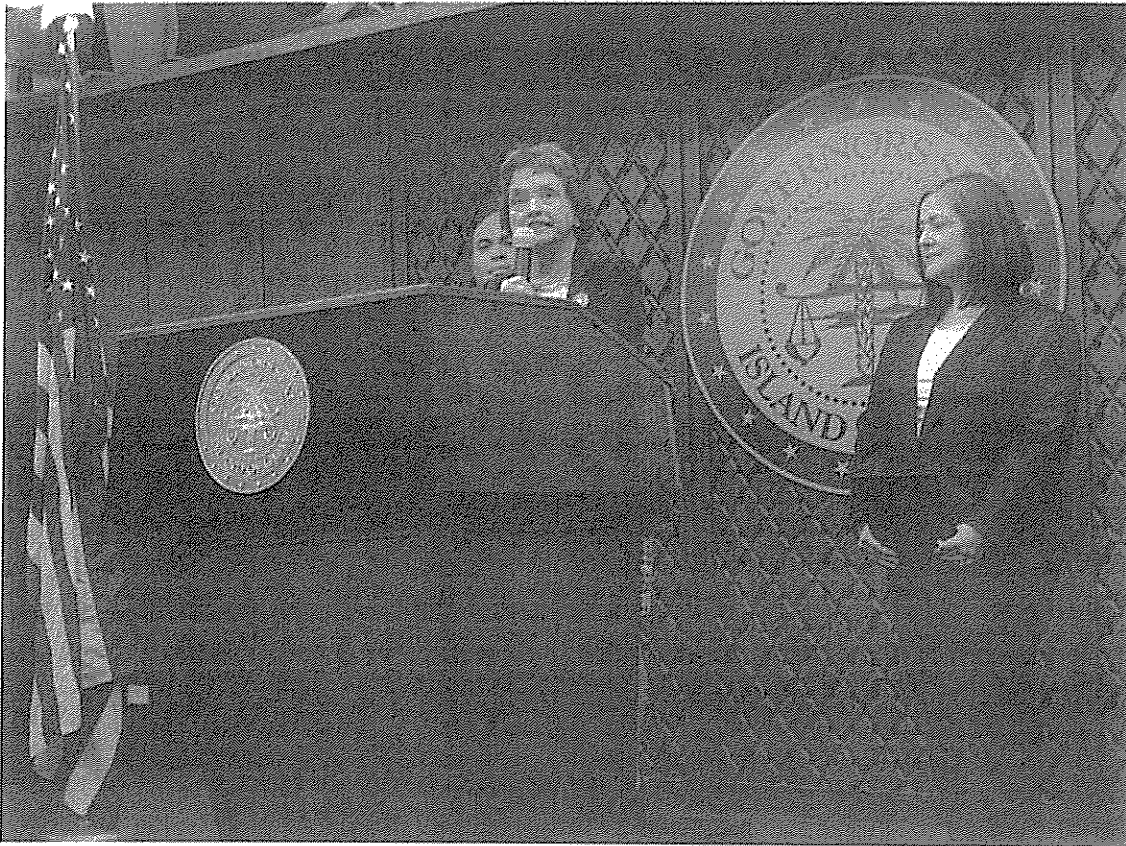
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**PNGUAM.COM**



## Dana Gutierrez nominated to serve as 8th Superior Court judge

By Kevin Kerrigan - November 19, 2019



*Governor Leon Guerrero has nominated Dana Gutierrez to serve as the 8th judge of the Superior Court of Guam. (PNC photo by Kent Pueblo)*

Governor Leon Guerrero has nominated Dana Gutierrez to serve as the 8th judge of the Superior Court of Guam.

The Guam Judicial Council has repeatedly stated the need for an eighth judge, said the governor during a news conference at Adelup this morning.

## Dana Gutierrez nominated as the 8th judge of the Superior Court

Governor Leon Guerrero has nominated Dana Gutierrez to serve as the 8th judge of the Superior Court.

She reviewed a list of recommended candidates from the Guam Bar Association, conducted a series of interviews, and decided that Gutierrez meets all of the qualifications, in addition to being a Democrat.

"Dana, we are proud of your accomplishments and we look forward to you assuming a role as Guam's next Superior Court judge. We know that you will do your part to administer justice fairly and equally. And it's also an honor to have her be my first appointee after 18 years of Republican appointees I am now appointing a Democrat under our Democratic administration," the governor said.

Dana Gutierrez, the judge nominee, said: "Each time I take the bench, if I am confirmed, I will always conduct myself the way that the governor conducts herself in her administration with fairness, open-mindedness and with a commitment to justice."

Gutierrez earned her law degree at the University of Southern California. She has over 20 years of experience in law, serving most recently as an attorney with the Calvo, Fisher, and Jacob law firm.

Judiciary spokesman Shawn Gumataotao said that Gutierrez will have to go through a confirmation process that may not be completed until April.

The Judiciary will have to submit a budget request to cover the cost of her \$179,000 salary and the additional costs for a chamber clerk, bailiff, and other staff.

Gumataotao said there are some funded positions at the court that have not been filled so there should be enough money to cover all the salary needs if Gutierrez is confirmed.

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Kevin Kerrigan