



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By [Signature]

Time 12:10

Date 6/29/95

JUN 28 1995

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

Enclosed please find a copy of Substitute Bill No. 53 (L5), "AN ACT TO APPROVE THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE EFFECTIVE DATE OF SUCH RULES", which I have signed into law today as **Public Law No. 23-34**.

Today is a day of celebration for Guam! The creation of our own Supreme Court continues the process towards self-determination for our people. The Guam Legislature attempted to create a Supreme Court by local law in 1974. The Bill which was passes at the time was the effort of former Senator Frank G. Lujan, however, at that time, the legislation was ruled "inorganic" and beyond the authority of the Guam Legislature to enact.

In 1984, during my term as Speaker of the Seventeenth Guam Legislature, the United States Congress passed the Omnibus Territories Act of 1984 allowing the establishment of a local Supreme Court which would be the final arbiter of law on Guam. The Omnibus Territories Act contains a provision that retains the current practise of taking final appeals of court decisions to the Ninth Circuit Court of Appeals for Fifteen (15) years after enactment of a local Supreme Court, and thereafter this practise is discontinued.

In 1992, the Twenty-First Guam Legislature enacted Public Law 21-147, sponsored by Senator Pilar C. Lujan and named the "Frank G. Lujan Memorial Court Reorganization Act", providing a mechanism for the Supreme Court of Guam to come into existence upon approval by the Legislature of the Rules and staffing

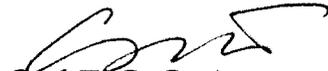
Date: June 28, 1995
Time: 3:45pm
Received By: Photo
Print Name: Phil Roberts

RECEIVED
JUN 29 1995
[Signature]

pattern of the new court. These Rules and staffing pattern were approved in Substitute Bill No. 53.

I am happy to sign Substitute Bill No. 53 into law today as Public Law 23-34, thus continuing the maturing of the government of our island, and enabling Guam's Justices to have the final interpretation of Guam's laws for Guam's people.

Very truly yours,



Carl T. C. Gutierrez

Attachment

230526

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 53 (LS), "AN ACT TO APPROVE THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO THE EFFECTIVE DATE OF SUCH RULES," was on the 6th day of June, 1995, duly and regularly passed. The Bill received twenty votes to pass, with one member off-island.



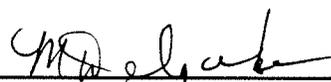
DON PARKINSON
Speaker

Attested:



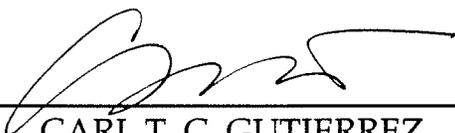
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 16 day of JUNE,
1995, at 10:30 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 6-28-95

Public Law No. 23-34

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 53 (LS)

As substituted on the floor.

Introduced by:

M. C. Charfauros
T. S. Nelson
A. C. Blaz
T. C. Ada
J. P. Aguon
E. Barrett-Anderson
J. S. Brown
F. P. Camacho
H. A. Cristobal
M. Forbes
A. C. Lamorena
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO APPROVE THE RULES OF APPELLATE
PROCEDURE FOR THE SUPREME COURT OF GUAM
AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7,
GUAM CODE ANNOTATED, RELATIVE TO THE
EFFECTIVE DATE OF SUCH RULES.

- 1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1. Legislative statement and findings.** The Legislature finds
3 that the Legislature passed Substitute Bill No. 102, which was subsequently

1 signed into law (Public Law 21-147) by the Governor. Public Law 21-147
2 contained a provision calling for the creation of a thirteen (13) member Rules
3 Commission, which was tasked with developing proposed rules and
4 regulations to govern the operation of the Judicial Branch. The Commission
5 consisted of all six (6) Superior Court Judges, four (4) practicing and locally-
6 licensed attorneys from the Guam Bar Association, and three (3) residents-at-
7 large, who drafted rules of court, appellate and ethical procedures,
8 organization and other matters pertaining to the operation and functions of
9 the Guam Supreme Court. The Legislature further finds that from July 21,
10 1993, to September 7, 1993, the Commission met weekly and on September 13,
11 1993, transmitted its proposed Rules of Appellate procedure for the Supreme
12 Court of Guam to the Judicial Council for review and final transmittal to the
13 Legislature, as required by law. The Legislature further notes that the
14 Judicial Council, having reviewed the proposed rules, transmitted the same
15 to the Legislature on November 16, 1993, for enactment. The Legislative
16 Committee on Judiciary and Criminal Justice conducted a public hearing on
17 the proposed rules on Thursday, March 3, 1994. A subsequent hearing was
18 held on Friday, May 6, 1994, to discuss operational costs. It was
19 recommended that appropriations for the operation of the Supreme Court be
20 addressed separately.

21 **Section 2. Adoption of Rules and Appendices.** The Rules of Appellate
22 Procedure for the Supreme Court of Guam, as drafted and approved by the
23 Supreme Court Rules Commission and the Judicial Council, are hereby
24 approved by the Legislature, in their entirety, inclusive of the appendices, and
25 shall take effect sixty (60) days after this Act goes into effect.

26 **Section 3. Amendment.** Subsection (d) of §1103 of Title 7, Guam Code
27 Annotated, is hereby amended to read:

1 "(d) **Adoption of rules of court.** Within thirty (30) days after May
2 1, 1993, the Presiding Judge of the Superior Court shall appoint a
3 commission (the "Rules Commission") to draft proposed new rules and
4 procedures to govern the operation of the Judicial Branch as
5 reorganized by this Act ("the Rules"). The Rules Commission shall
6 consist of thirteen (13) members, of whom six (6) shall be sitting Judges
7 of the Superior Court, four (4) shall be attorneys admitted to practice in
8 Guam and members of the Guam Bar Association, and three (3) shall be
9 lay persons who are residents of Guam, citizens of the United States,
10 and of good reputation. At its first sitting, the Rules Commission shall
11 elect a chairperson from among its members, and shall adopt a schedule
12 of public hearings and meetings during which the Rules shall be
13 considered and recommended for adoption. The Superior Court shall
14 furnish personnel and other logistic support to the Rules Commission,
15 which, in addition to the Rules, shall consider and make
16 recommendations on the staffing pattern of the Judicial Branch as
17 reorganized by this Act. When the Rules Commission has concluded its
18 studies and has agreed upon the proposed Rules and staffing pattern, it
19 shall submit the same to the Judicial Council, which shall in turn submit
20 them to the Legislature, without any changes therein, although it may
21 make recommendations to the Legislature thereon. The Rules
22 Commission shall cease to exist thirty (30) days after its submission to
23 the Judicial Council. The Legislature, without the forty-five-(45-) day
24 limitation of the Administrative Law (the "AAL"), may, by statute,
25 approve such Rules and staffing pattern or modify them as it deems fit.
26 After the effective date of the Rules and staffing pattern, the Governor
27 shall appoint the Justices and Judges authorized by this Act. Upon the

1 due appointment and confirmation of such Justices and Judges, the
2 Justices, sitting **en banc**, shall review the Rules and staffing pattern, and
3 may approve or modify the same, which Rules and staffing pattern of
4 the Supreme Court as so adopted by the Justices shall be deemed
5 proposed rules and regulations adopted by an autonomous agency of
6 the government of Guam pursuant to the Administrative Adjudication
7 Law and shall therefore be transmitted to the Legislature which shall
8 consider them in the manner and under the time limitations as set out in
9 the Administrative Adjudication Law."

10 **Section 4. Title.** This Act shall be cited and referred to as "The
11 Supreme Court of Guam Rules of Appellate Procedure Act".

10-23-94 ✓

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

February 13, 1995

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 53**, wishes to report back to the Legislature with its recommendation to pass **Bill No. 53** - "AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES".

The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.


MARK C. CHARFAUROS

Attachments

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature

Tel.: (671) 472-3342/3/5

Fax: (671) 472-3440

February 6, 1995

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 53** - "AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES".

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

1. Original Bill 53;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

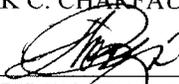
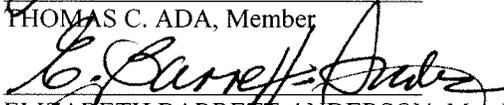
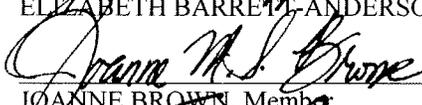
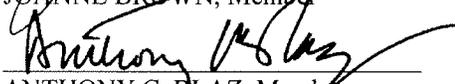
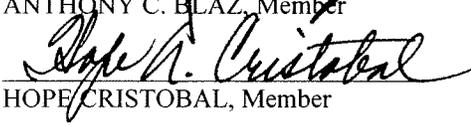
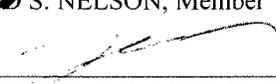
Your attention and cooperation in this matter is greatly appreciated.


MARK C. CHARFAUROS

Attachments.

COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD

Bill No. 53 - "AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES"

	<u>TO</u> <u>PASS</u>	<u>NOT TO</u> <u>PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE</u> <u>FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	---	---	---
 JUDITH WONPAT-BORJA, Vice-Chairman	✓	---	---	---
 THOMAS C. ADA, Member	✓	---	---	---
 ELIZABETH BARRETT-ANDERSON, Member	✓	---	---	---
 JOANNE BROWN, Member	✓	---	---	---
 ANTHONY C. BLAZ, Member	✓	---	---	---
 HOPE CRISTOBAL, Member	✓	---	---	---
A. TONY LAMORENA, Member	---	---	---	---
LOU LEON GUERRERO, Member	---	---	---	---
 TED S. NELSON, Member	✓	---	---	---
 VICENTE C. PANGELINAN, Member	✓	---	---	---
 ANGEL L.G. SANTOS, Member	✓	---	---	---
DON PARKINSON, Ex-Officio Member	---	---	---	---

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT
BILL NO. **53**

“AN ACT TO ENACT THE RULES OF APPELLATE
PROCEDURE FOR THE SUPREME COURT OF
GUAM AND TO AMEND SUBSECTION (d) OF
§1103, TITLE 7, GUAM CODE ANNOTATED, ON
THE EFFECTIVE DATE OF SUCH RULES ”

FEBRUARY 6, 1995

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on February 1, 1995 at 9:00 p.m. at the Legislative Public Hearing Room. Public notice was announced through various electronic media on January 31, 1995 and printed on February 1, 1995 issue of the PDN. Members present were:

Senator Mark C. Charfauros, Chairman
Senator Judith WonPat-Borja, Vice-Chairman
Senator Tom Ada
Senator Ted S. Nelson
Senator Ben Pangelinan
Senator Lou Leon Guerrero
Senator Tony Blaz
Senator Joanne Brown
Senator Tony Lamorena
Senator Elizabeth Barrett-Anderson.

Appearing before the Committee to testify on the bill were:

The Honorable Peter Siguenza, Superior Court of Guam Judge
The Honorable Benjamin J. Cruz, Superior Court of Guam Judge
The Honorable Frances Tydingco-Gatewood, Superior Court of Guam Judge
The Honorable Janet Healy Weeks, Superior Court of Guam Judge, submitted written testimony
The Honorable Katherine A. Maraman, Superior Court of Guam Judge, submitted written testimony.
Tony Sanchez, Administrative Director, Superior Court of Guam
Lourdes Pangelinan, Director of Communications

II. SUMMARY OF TESTIMONY

Judge Peter Siguenza, testified in the capacity of the former Chairman of the Commission on the Supreme Court Rules, the Rules Commission expired by operation of law thirty days after submission of the Supreme Court rules to the Legislature. Judge Siguenza urged respectfully that the body favorably consider this legislation, it has already been up to the Legislature before and for whatever reason it was not passed at that time.

Judge Benjamin J. Cruz, fully supports the intent of bill 53, Judge stated that the reason it is imperative that this Bill passes is that it is the catalyst upon which the Supreme Court will be created. Twenty years ago, the last year of his law school he states that he witnessed Howard Trapp, argue against the constitutionality of the then court reorganization bill, which resulted in the Supreme court eventually stating that the Guam Legislature did not have the power to establish the Supreme Court in 1974. It pointed out the fact that we did not and do not have three real full branches of Government. Ten years after the enactment and the authorization by the US Congress the Legislature finally passed the legislation, authorizing the establishment of the Supreme Court. Unfortunately, it is going to take the passage and the approval of this Rules to actually bring it into "Fruition", and even after that there will be still a short period of time between which the passage and the Governor can finally start appointing members to the court. He really urges this committee to report out favorably and to urge the Legislature to pass it as soon as possible without riders.

Judge Frances Tydingco-Gatewood, although she was not going to testify, she was testifying as a Supreme Court Rules Commission Member. She was asked to be on the Commission when she was a prosecuting attorney, she is in favor of the then chairman Judge Peter Siguenza testimony as well as Judge Cruz. The Rules that are before the members tract the District Court Rules of Guam as well as some of the CNMI Rules of appellate procedure. She has appeared before the Ninth Circuit Court of Appeals about five times on behalf of the People in criminal cases. She truly believes that the passage of the Supreme Court Rules is long overdue, we do not need the Ninth Circuit to oversee Guam. Guam is mature enough to send up its Supreme Court members so that all cases, whether criminal or civil can be appealed to the Supreme Court members, as opposed to flying off to San Francisco or Hawaii arguing our cases before judges who really do not know what is going on Guam.

Tony Sanchez, as management and on behalf of the Judicial Council, he urges

quick passage of the Rules of Appellate Procedure, which has adequate hearings. The Judges and the Juris of Guam have demonstrated adequately their ability to interpret and set the legal boundary that this territory lives under and feels that we are prepared to move forward as it should have happened years ago.

Lourdes Pangelinan, she echoes the sentiments of not only the Presiding Judge and the Judicial Council, members of the Rules Commission but also the sentiments of the Judges of the Superior Court of Guam in urging this Committee to consider seriously the passage of this Bill 53. As stated earlier the Judiciary Branch has indeed matured to the point where the implementation of the Supreme Court of Guam is timely and very briefly just simply to urge its passage.

Judge Katherine A. Maraman, requests to the Committee that the Rules of Appellate Procedure should be approved without the amendment set out in Section 2 and in Section 3 amend to remove the requirements that the Supreme Court submit any of its rules and staffing pattern to the Governor and the Legislature for enactment. Although Sen. Ben Pangelinan and other Senators said that they would not support Judge Maraman in her request to delete these sections. His reason is that it is unclear as to what the Supreme Court needs in regards to the staffing pattern.

In closing, she urges the Legislature to pass Bill 53.

Judge Janet Healy Weeks, The present bill which in most respects is like the one "we judges approved earlier", and appears satisfactory in all respects.

III. FINDING AND RECOMMENDATION

The Committee finds that Public Law 21-147 contained a provision calling for the creation of a thirteen (13) member Rules Commission which was tasked with developing proposed rules and regulations to govern the operation of the Judicial Branch. The Commission consisted of all six Superior Court Judges, four (4) practicing and locally-licensed attorney from the Guam Bar Association, and three (3) residents-at-large, who drafted rules of court, appellate and ethical procedures, organization and other matters pertaining to the operation and functions of the Guam Supreme Court..

The Committee also finds from July 21, 1993 to September 7, 1993, the Commission met weekly and on September 13, 1993, transmitted its proposed Rules of Appellate procedure for the Supreme Court of Guam to the Judicial Council for review and final transmittal to the Legislature, as required by law. The Legislature further notes that the Judicial Council, having reviewed the proposed rules, transmitted the same to the Legislature on November 16, 1993 for enactment. The Legislative Committee on Judiciary and Criminal Justice conducted a public hearing on the proposed rules on Thursday, March 3, 1994. A subsequent hearing was held on Friday, May 6, 1994 to discuss operational costs. It was recommended that appropriations for the operation of the Supreme Court be addressed separately.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 53**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature "**TO DO PASS**" **Bill No. 53** - "AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES".

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 53

Introduced by:

M.C. Charfauros *MC*

T. J. Velazquez
ACBLAZ M

AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 **SECTION 1. Legislative statement and findings.** The Legislature passed substitute
2 Bill No. 102, subsequently signed into law (Public Law No 21-147) by the Governor. Public
3 Law 21-147 contained a provision calling for the creation of a thirteen (13) member Rules
4 Commission which was tasked with developing proposed rules and regulations to govern the
5 operation of the Judicial Branch. The Commission consisted of all six Superior Court Judges,
6 four (4) practicing and locally-licensed attorney from the Guam Bar Association, and three (3)
7 residents-at-large, who drafted rules of court, appellate and ethical procedures, organization
8 and other matters pertaining to the operation and functions of the Guam Supreme Court. The
9 Legislature further finds that from July 21, 1993 to September 7, 1993, the Commission met
10 weekly and on September 13, 1993, transmitted its proposed Rules of Appellate procedure for
11 the Supreme Court of Guam to the Judicial Council for review and final transmittal to the
12 Legislature, as required by law. The Legislature further notes that the Judicial Council, having
13 reviewed the proposed rules, transmitted the same to the Legislature on November 16, 1993

1 for enactment. The Legislative Committee on Judiciary and Criminal Justice conducted a
2 public hearing on the proposed rules on Thursday, March 3, 1994. A subsequent hearing was
3 held on Friday, May 6, 1994 to discuss operational costs. It was recommended that
4 appropriations for the operation of the Supreme Court be addressed separately.

5 **SECTION 2. Adoption of Rules and Appendices.** The Rules of Appellate Procedure of
6 the Supreme Court of Guam, as drafted and approved by the Supreme Court Task Force and the
7 Judicial Council, are hereby approved by the Legislature, in their entirety, inclusive of the
8 appendices, and they shall take effect sixty (60) days after this Act goes into effect.

9 **SECTION 3. Amendment.** §1103 of Title 7, Guam Code Annotated, is hereby amended
10 to read:

11 "(d) **Adoption of rules of court.** Within thirty (30) days after May 1, 1993, the Presiding
12 Judge of the Superior Court shall appoint a commission (the "Rules Commission") to draft
13 proposed new rules and procedures to govern the operation of the Judicial Branch as reorganized
14 by this Act ("the Rules"). The Rules Commission shall consist of thirteen (13) members, of
15 whom six shall be sitting Judges of the Superior Court, four (4) shall be attorneys admitted to
16 practice in Guam and members of the Guam Bar Association, and three (3) shall be lay
17 persons who are residents of Guam, citizens of the United States, and good reputation. At its
18 first sitting, the Rules Commission shall elect a chairperson from among its members, and
19 shall adopt a schedule of public hearings and meetings during which the Rules shall be
20 considered and recommended for adoption. The Superior Court shall furnish personnel and
21 other logistic support to the Rules Commission, which, in addition to the Rules, shall consider
22 and make recommendations on the staffing pattern of the Judicial Branch as reorganized by
23 this Act. When the Rules Commission has concluded its studied and has agreed upon the
24 proposed Rules and staffing pattern, it shall submit the same to the Judicial Council, which
25 shall in turn submit them to the Legislature, without any changes therein, although it may
26 make recommendations to the Legislature thereon. The Rules Commission shall cease to exist
27 thirty (30) days after its submission to the Judicial Council. The Legislature, without the
28 forty-five-(45-)day limitation of the Administrative Law (the "AAL"), may by statute, approve
29 such Rules and staffing pattern or modify them as it deems fit. After the effective date of the
30 Rules and staffing pattern, the Governor shall appoint the Justices and Judges authorized by

1 this Act. Upon the due appointment and confirmation of such Justices and Judges, the
2 Justices, sitting **en banc**, shall review the Rules and staffing pattern, and may approve or
3 modify the same, which Rules and staffing pattern of the Supreme Court as so adopted by the
4 Justices shall be deemed proposed rules and regulations adopted by an autonomous agency of
5 the government of Guam pursuant to the Administrative Adjudication Law and shall therefore
6 be transmitted to the Legislature which shall consider them in the manner and under the time
7 limitations as set out in the Administrative Adjudication Law."

8 **SECTION 4. Title.** This Act shall be cited and referred to as "The Supreme Court of
9 Guam Rules of Appellate Procedure Act".

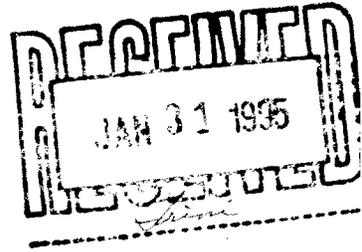


PRESIDING JUDGE ALBERTO C. LAMORENA, III
Chairman

Evelyna T. Akimoto
Secretary

Guam Judicial Council / Board of Law Examiners

Superior Court of Guam
Judiciary Center
120 West O'Brien Drive
Agana, Guam 96910
Telephone: (671) 475-3199
(671) 475-3410



January 30, 1995

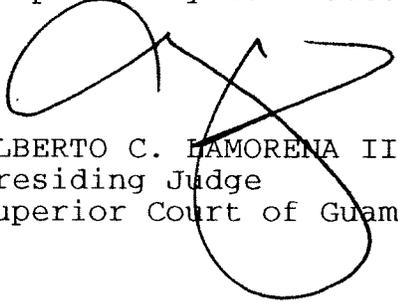
Senator Mark Charfauros
Chairperson, Committee on Judiciary,
Criminal Justice and Environmental Affairs
Twenty-Third Guam Legislature
Agana, Guam 96910

Dear Senator Charfauros:

Enclosed are the Rules of Appellate Procedure for the Supreme Court of Guam drafted by the Supreme Court Rules Commission. The Guam Judicial Council has reviewed the Rules and voted unanimously to submit the Rules as drafted by the Rules Commission without any amendments to the Twenty-Third Guam Legislature for enactment.

With your support, the Guam Legislature can make the Supreme Court a reality by expeditiously enacting the Rules in the next session. If you have any questions, please feel free to contact me.

Respectfully submitted,



ALBERTO C. LAMORENA III
Presiding Judge
Superior Court of Guam

**BEFORE
THE GUAM JUDICIAL COUNCIL**

RESOLUTION NUMBER 02-95

**RELATIVE TO THE ENACTMENT OF THE RULES OF APPELLATE PROCEDURE
FOR THE SUPREME COURT OF GUAM**

WHEREAS, the Supreme Court Rules Commission was established to draft the Rules of Appellate Procedure for the Supreme Court of Guam; and

WHEREAS, on September 13, 1993, after drafting the rules, the Supreme Court Rules Commission voted to submit the Rules of Appellate Procedure for the Supreme Court of Guam to the Guam Judicial Council; and

WHEREAS, on September 22, 1993, the Judicial Council received the Rules of Appellate Procedure for the Supreme Court of Guam from the Chairperson of the Rules Commission, Judge Peter C. Siguenza, Jr., and was given an opportunity to review the rules and make any changes or recommendations before submission of the rules to the legislature. Attached is a copy of Judge Siguenza's letter; and

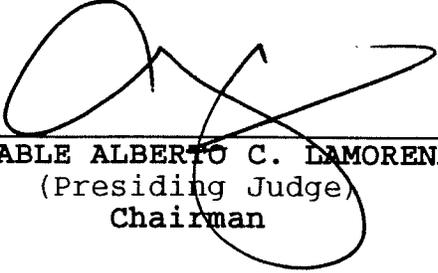
WHEREAS, on October 26, 1993, the Judicial Council voted to approve the Rules of Appellate Procedure for the Supreme Court of Guam as drafted by the Supreme Court Rules Commission and to submit the rules to the Guam Legislature without any amendments;

WHEREAS, on December 9, 1994, the Twenty-Second Guam Legislature passed Bill No. 1211 an act to enact the Rules of Appellate Procedure for the Supreme Court of Guam which was vetoed by Governor Joseph F. Ada on December 31, 1994;

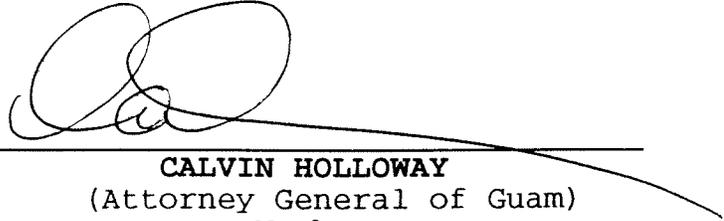
WHEREAS, on February 1, 1995, Senator Mark Charfauros will conduct a public hearing on Bill No. 53, "An Act to Enact the Rules of Appellate Procedure for the Supreme Court of Guam and to Amend Subsection 1103(d) of the Guam Code Annotated, on the Effective Date of such Rules."

NOW THEREFORE BE IT RESOLVED, that the Guam Judicial Council hereby resubmits the Rules of Appellate Procedure for the Supreme Court of Guam to the Twenty-Third Guam Legislature for enactment and endorses Bill No. 53 as originally introduced by Senator Mark Charfauros.

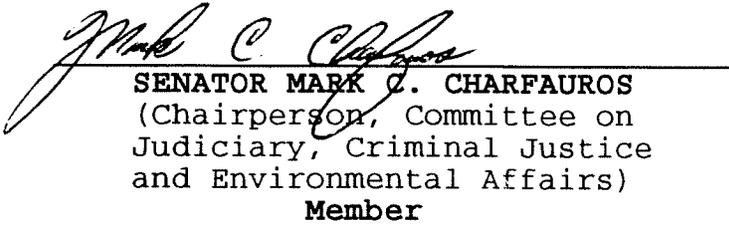
DULY AND REGULARLY ADOPTED THIS 30TH DAY OF JANUARY, 1995.



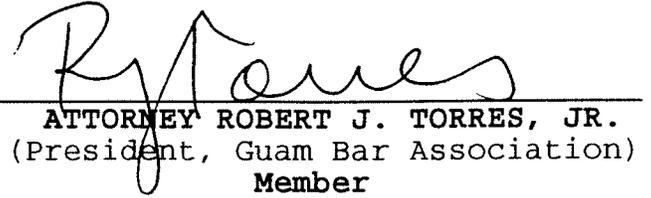
HONORABLE ALBERTO C. LAMORENA III
(Presiding Judge)
Chairman



CALVIN HOLLOWAY
(Attorney General of Guam)
Member



SENATOR MARK C. CHARFAUROS
(Chairperson, Committee on
Judiciary, Criminal Justice
and Environmental Affairs)
Member



ATTORNEY ROBERT J. TORRES, JR.
(President, Guam Bar Association)
Member



Chambers of
PETER C. SIGUENZA
 Judge

SUPERIOR COURT OF GUAM
 Judiciary Building
 110 West O'Brien Drive
 Agana, Guam 96910



Tel: (671) 472-8961-8

September 22, 1993

Greetings to the JUDICIAL COUNCIL:

Whereas . . .

Whereas . . .

Whereas . . .

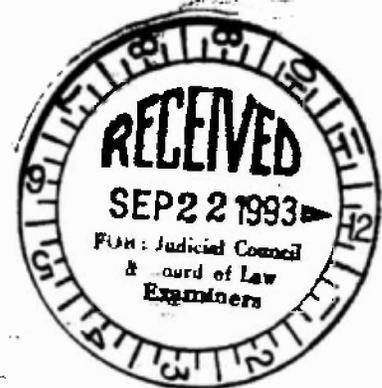
Whereas . . .

Now Therefore . . .

Here are the Rules and Staffing Pattern for the
 Supreme Court of Guam.

JUDGE PETER SIGUENZA
 Chairman, Rules Commission

cc w/o encl
 All Committee Members





Superior Court of Guam
Judicial Center
120 West O'Brien Drive
Agana, Guam 96910
Telephone: (671) 475-3450/3410
Fax: (671) 477-3184



Hon. Alberto C. Lamorena III
Presiding Judge

November 16, 1993

The Honorable Joe T. San Agustin
 Speaker
 Twenty Second Guam Legislature
 Agana, Guam 96910

Dear Mr. Speaker:

Enclosed are the Rules of Appellate Procedure for the Supreme Court of Guam drafted by the Supreme Court Rules Commission. The Guam Judicial Council has reviewed the Rules and voted unanimously to submit the Rules as drafted by the Rules Commission without any amendments to the Twenty Second Guam Legislature for enactment.

In addition, the Judicial Council is also considering amendments to the Supreme Court Law. These amendments should be considered independent of the Rules and should not, in any way, delay its passage in the Legislature.

The Guam Legislature can make the Supreme Court a reality by expeditiously enacting the Rules in the next session. If you have any questions, please feel free to contact me.

Respectfully Submitted,

ALBERTO C. LAMORENA III
Presiding Judge
Superior Court of Guam

RECEIVED

OFFICE OF THE SPEAKER
 DATE: 11/17/93
 TIME: 4:50 PM
 RECD BY: Uma

BEFORE
THE GUAM JUDICIAL COUNCIL

RESOLUTION NUMBER 93-09

RELATIVE TO THE ENACTMENT OF THE RULES OF APPELLATE PROCEDURE
FOR THE SUPREME COURT OF GUAM

- WHEREAS, the Supreme Court Rules Commission was established to draft the Rules of Appellate Procedure for the Supreme Court of Guam; and
- WHEREAS, on September 13, 1993, after drafting the rules, the Supreme Court Rules Commission voted to submit the Rules of Appellate Procedure for the Supreme Court of Guam to the Guam Judicial Council; and
- WHEREAS, on September 22, 1993, the Judicial Council received the Rules of Appellate Procedure for the Supreme Court of Guam and was given an opportunity to review the rules and make any changes or recommendations before submission of the rules to the legislature; and
- WHEREAS, on October 26, 1993, the Judicial Council voted to approve the Rules of Appellate Procedure for the Supreme Court of Guam as drafted by the Supreme Court Rules Commission and to submit the rules to the Guam Legislature;

NOW THEREFORE BE IT RESOLVED, that the Guam Judicial Council hereby submits the Rules of Appellate Procedure for the Supreme Court of Guam to the Guam Legislature for enactment.

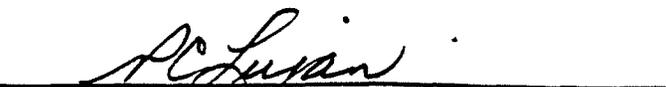
DULY AND REGULARLY ADOPTED THIS 26TH DAY OF OCTOBER, 1993.



HONORABLE ALBERTO C. LAMORENA III
(Presiding Judge)
Chairman



ELIZABETH BARRETT-ANDERSON
(Attorney General of Guam)
Member



SENATOR PILAR C. LUJAN
(Chairperson, Committee on
Justice, Judiciary, and Criminal
Justice) Member



ATTORNEY ROBERT J. TORRES
(President, Guam Bar Association)
Member



Superior Court of Guam
Judicial Center
120 West O'Brien Drive
Agana, Guam 96910
Telephone: (671) 475-3450/3410
Fax: (671) 477-3184



Hon. Alberto C. Lamorena III
Presiding Judge

November 16, 1993

The Honorable Joe T. San Agustin
Speaker
Twenty Second Guam Legislature
Agana, Guam 96910

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In addition, the Judicial Council is also considering amendments to the Supreme Court Law. These amendments should be considered independent of the Rules and should not, in any way, delay its passage in the Legislature.

The Guam Legislature can make the Supreme Court a reality by expeditiously enacting the Rules in the next session. If you have any questions, please feel free to contact me.

Respectfully Submitted,

ALBERTO C. LAMORENA III
Presiding Judge
Superior Court of Guam

RECEIVED
OFFICE OF THE SPEAKER
DATE: 11/17/93
TIME: 4:50 PM
RECD BY: line

BEFORE
THE GUAM JUDICIAL COUNCIL

RESOLUTION NUMBER 93-09

RELATIVE TO THE ENACTMENT OF THE RULES OF APPELLATE PROCEDURE
FOR THE SUPREME COURT OF GUAM

WHEREAS, the Supreme Court Rules Commission was established to draft the Rules of Appellate Procedure for the Supreme Court of Guam; and

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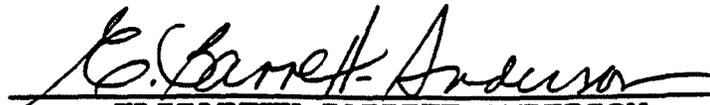
WHEREAS, on October 26, 1993, the Judicial Council voted to approve the Rules of Appellate Procedure for the Supreme Court of Guam as drafted by the Supreme Court Rules Commission and to submit the rules to the Guam Legislature;

NOW THEREFORE BE IT RESOLVED, that the Guam Judicial Council hereby submits the Rules of Appellate Procedure for the Supreme Court of Guam to the Guam Legislature for enactment.

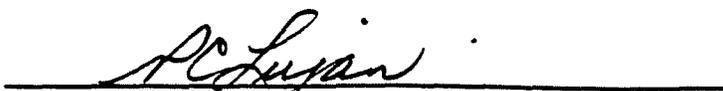
DULY AND REGULARLY ADOPTED THIS 26TH DAY OF OCTOBER, 1993.



HONORABLE ALBERTO C. LAMORENA III
(Presiding Judge)
Chairman



ELIZABETH BARRETT-ANDERSON
(Attorney General of Guam)
Member



SENATOR PILAR C. LUJAN
(Chairperson, Committee on
Justice, Judiciary, and Criminal
Justice) Member



ATTORNEY ROBERT J. TORRES
(President, Guam Bar Association)
Member



Chambers of
PETER C. SIGUENZA
 Judge

SUPERIOR COURT OF GUAM
 Judiciary Building
 110 West O'Brien Drive
 Agana, Guam 96910



Tel: (671) 472-8961-4

September 22, 1993

Greetings to the JUDICIAL COUNCIL:

Whereas . . .

Whereas . . .

Whereas . . .

Whereas . . .

Now Therefore . . .

Here are the Rules and Staffing Pattern for the
 Supreme Court of Guam.

JUDGE PETER SIGUENZA
 Chairman, Rules Commission

cc w/o encl
 All Committee Members



**RULES OF APPELLATE PROCEDURE
FOR THE SUPREME COURT OF GUAM**

Drafted by the Rules Commission

September 13, 1993

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PROPOSED ORGANIZATIONAL CHART FOR THE SUPREME COURT OF GUAM

RULES OF APPELLATE PROCEDURE
FOR THE SUPREME COURT OF GUAM

APPLICABILITY OF RULES

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

These rules govern procedure and appeals to the Supreme Court of Guam from the Superior Court of Guam.

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

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

NOTE: The Rules of Appellate Procedure for the Supreme Court of Guam have been fashioned from the District Court of Guam Rules of Appellate Procedure and the CNMI Rules of Appellate Procedure.

RULE 2 -- SUSPENSION OF RULES.

In the interest of justice or of expediting a decision or for other good cause shown, the Supreme Court may, except as otherwise provided in Rule 14(b) of these Rules, suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its decision.

APPEALS FROM JUDGEMENTS AND ORDERS
OF THE SUPERIOR COURT

RULE 3 -- APPEAL AS OF RIGHT.

a) Filing the Notice of Appeal.

An appeal permitted by law as of right from the Superior Court to the Supreme Court shall be taken by filing a notice of appeal with the Clerk of the Superior Court within the time allowed by Rule 4 of these Rules. Failure of an appellant to take any step other than the timely filing of the notice of appeal does not affect the validity of the appeal, but is ground only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal.

b) Joint or Consolidated Appeals.

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

c) Content of the Notice of Appeal.

The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, order, or part thereof appealed from. Form 1 in the Appendix of Forms is the suggested form of notice of appeal for civil appeals.

d) Service of the Notice of Appeal.

The Clerk of the Superior Court shall serve notice of the filing of the Notice of Appeal by mailing a copy thereof to counsel of record of each party other than the appellant, (or if a party is not represented by counsel, to the party at his last known address). When an appeal is taken by a defendant in a criminal case, the Clerk of the Superior Court shall also serve a copy of the notice of appeal upon him, either by personal service or by mail addressed to him. The Clerk shall also note on each copy served, the date on which the notice of appeal was filed. Failure of the Clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or his counsel. The Clerk shall note in the docket the names of the parties to whom he mails copies, with the date of mailing.

e) Criminal Appeals.

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

RULE 4 -- PERMISSIVE APPEALS.

a) When and How Taken.

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

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

The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the Superior Court by any party pursuant to the grounds enumerated below, and the full time for appeal fixed by this subdivision commences to run and is to be computed by entry of the following orders made upon a timely motion: (1) granting or denying a motion for judgment notwithstanding the verdict under Guam Rule of Civil Procedure Rule 50(b); (2) granting or denying a motion to amend or make additional findings of fact under GRCP Rule 52(b) (whether or not an alteration of judgment would be required if the motion is granted); (3) granting or denying a motion to alter or amend judgment under GRCP Rule 59; and (4) denying a motion for a new trial under GRCP Rule 59. A notice of appeal filed before the disposition of any of the above motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motions as provided above. No additional fees shall be required for such filing.

c) Extension of Time for Filing Notice; Excusable Neglect.

Upon a showing of excusable neglect, the Superior Court may extend the time for filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this subdivision. Such an extension may be granted before or after the time otherwise prescribed by this subdivision has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notices as the court shall deem appropriate.

[#]
RULE 5 -- RELEASE IN CRIMINAL CASES.
#

a) Release Entered Prior to a Judgment of Conviction.

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

b) Release Pending Appeal from Judgment of Conviction.

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

RULE 6 -- BOND FOR COSTS ON APPEAL IN CIVIL CASES.

The Superior Court of Guam may require an appellant to file a bond or provide other security in such a form and amount as it finds necessary to ensure payment of costs on appeal in a civil case.

If a bond for costs on appeal is required by the Superior Court, it shall have sufficient surety, and it or any equivalent security shall be conditioned to secure the payment of costs if the appeal is finally dismissed or the judgment is affirmed or modified. After a bond for costs on appeal is filed, an appellee may raise for determination by the Clerk of the Superior Court objections to the form of the bond or the sufficiency of the surety.

When an appeal is taken by the Government of Guam or an officer or agency thereof in his/her official capacity, no security may be required for stay of execution of judgment pending appeal.

RULE 7 -- MOTIONS.

a) Content of Motions; Response; Reply.

Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion other than one for a procedural order [for which see subsection (b)] within seven (7) days after service of the motion, but motions authorized by Rules 5, 15, and 25(b) of these Rules may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion.

b) Determination of Motions for Procedural Orders.

Notwithstanding the provisions of subsection (a) of this Rule as to motions generally, motions for procedural orders including any motion under Rule 14(b) of these Rules, may be acted upon at any time, without awaiting a response thereto. Any party adversely affected by such action may by application to the court request consideration, vacation or modification of such action.

c) Voluntary Dismissal.

1) Voluntary Dismissal in the Superior Court.

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

2) Voluntary Dismissal in the Supreme Court.

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

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

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

d) Motions by Appellee for Dismissal of Criminal Appeal.

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

e) Required Recitals in Motions in Criminal Appeals.

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

f) Emergency Motions.

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

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

RULE 8 -- THE RECORD ON APPEAL.

a) Composition of the Record on Appeal.

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

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

- 1) Within ten (10) days after filing the notice of appeal, the Appellant shall order in writing from the Clerk of the Superior Court a transcript of such parts of the proceedings not already on file as he deems necessary for inclusion in the record.

If an Appellant is proceeding on appeal in forma pauperis pursuant to Rule 12(a) of these Rules, the Appellant shall, within ten (10) days after filing the notice of appeal, submit

to the Supreme Court for the Chief Justice's approval, his request to order transcript on the prescribed CJA 24 form entitled "Authorization & Voucher for Payment of Transcript." The CJA 24 form shall be furnished by the Clerk of the Supreme Court upon request of Appellant. The Appellant shall then, within ten (10) days after filing the notice of appeal, transmit the original approved CJA 24 form to the Clerk of the Superior Court, together with his written request for transcript. The Clerk of the Supreme Court shall retain a copy of the approved CJA 24 form to be placed in the Supreme Court Appellate file.

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

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

Trial transcripts are not to include pretrial motions, hearings, opening or closing statements, voir dire, or jury instructions unless specifically requested by Appellant as necessary to address appellate issues identified in an affidavit filed with this Court and served upon counsel. Record portions which do not appear relevant to the identified issues may be disallowed by a written order of this Court, sua sponte, or on counsel's motion.

- 3) Unless a transcript of the entire proceedings below is ordered by Appellant; including pretrial motions, hearings, opening and closing statements, the voir dire and the jury instructions, he shall file and serve on the appellee a description of the parts of the transcript which he intends to include in the record and a statement of the issues he

intends to present on appeal. This will be done within the time provided above.

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

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

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

c) Permission to Order Entire Trial Transcript.

If the Appellant does not intend to urge that the finding or conclusion is contrary to the evidence, he may not order the entire trial transcript without special leave of the Supreme Court of Guam. Good cause must be shown for the necessity of ordering the entire transcript of proceedings when it appears that such a transcript is not needed to support a claim that findings are not supported by substantial evidence.

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

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

settlement and approval, and as settled and approved shall be included by the Clerk of the Superior Court in the record on appeal.

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

e) Agreed Statement as a Record on Appeal.

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

f) Notice of Filing of Appeals.

Upon the filing of notice of appeal, the Clerk of the Superior Court shall immediately transmit a copy of the notice to the Supreme Court. The transmittal shall include a copy of the trial court docket sheet. A copy of the docket sheet shall also be served on the parties.

g) Designation of the Clerk's Record.

- 1) All parties filing briefs shall file a designation of the Clerk's record with the Clerk of the Superior Court and serve a copy on all parties. The designation shall specify those portions of the file to which the parties referred to in their briefs.
- 2) The parties shall serve and file their designation upon service of their briefs.
- 3) The Appellant shall also include in his designation of the Clerk's record the following documents:
 - (i) the petition or complaint and answer and, in criminal cases, the magistrate's complaint, information or indictment;

- (ii) the pretrial order, if any;
- (iii) the judgment or interlocutory order from which the appeal is taken;
- (iv) other orders sought to be reviewed, if any;
- (v) any supporting opinion, findings of fact or conclusions of law filed or delivered orally by the trial court;
- (vi) the motion and response upon which the court rendered judgment, if any;
- (vii) the notice of appeal;
- (viii) any certification by the Superior Court pursuant to Rule 54(b) of the Superior Court Rules of Civil Procedure;
- (ix) any order of the Superior Court under Rule 4(c) of these rules extending the time for filing the notice of appeal; and
- (x) the trial court docket sheet.

Although not all the above-listed requirements are applicable to each case, each Appellant's designation of record must contain at minimum items i, iii, vii, and x.

h) Limiting the Record on Appeal.

The appellant shall order only that portion of the record which is reasonably needed to advance his appeal. Generally, such peripheral matters as pretrial motions, pretrial briefs, continuances, etc., should not be included. The Supreme Court may impose cost sanctions against an individual attorney who unreasonably orders portions of the record which are not reasonably related to the appeal.

i) Preparation of the Record.

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

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

j) Filing and Custody of the Record.

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

The Clerk of the Superior Court shall prepare and transmit the record provided by subsection (g) of this Rule to the Supreme Court within fourteen (14) days of receipt of the appellee's/respondent's designation of the Clerk's record or upon notice by the Supreme Court in a particular case.

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

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

k) Custody of Exhibits.

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

l) Copies of the Record for Personal Use.

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

m) Improper Preparation of the Record.

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

n) Reproduction of the Transcript of Proceeding.

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

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

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

o) Extension of Time for Transmission of the Transcript; Reproduction of Time.

(1) Transcript. In the event that the court reporter for the Superior Court is unable to transmit the transcript of proceedings to the Supreme Court within forty days of the filing of notice of appeal, as required under subsection 3(a) of these Rules, the court reporter shall file a declaration with the Clerk of Court indicating the date that the transcript is due, the reason the transcript will not be prepared, and the date by which the court reporter believes the transcript will be completed.

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

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

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

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

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

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

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

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

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

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

p) Duty of Appellant.

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

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

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

r) Dismissal.

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

RULE 9 -- DOCKETING THE APPEAL; FILING OF THE RECORD.

a) Docketing the Appeal.

At the time of filing the notice of appeal in the Superior Court, the Appellant shall pay to the Clerk of the Supreme Court a docket fee of Two Hundred Fifty Dollars (\$250.00). Upon receipt of the notice of appeal in the Supreme Court, the Clerk shall thereupon enter the appeal upon the docket.

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

b) Filing of the Record.

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

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

1) Civil Cases.

If the case is not docketed at the prescribed time [See Rule 9(a)], the Clerk of the Supreme Court shall, upon receipt of the copy of the notice of appeal transmitted by the Superior Court, give notice to counsel for both parties that the appeal will be subject to dismissal if the prescribed docket fee of \$250.00 is not received within ten (10) days of the Clerk's notice. If the Appellant desires to proceed in forma pauperis, he must comply with Rule 12(a) of these Rules within ten (10) days of the Clerk's notice.

2) Criminal Cases.

If the case is not docketed at the prescribed time [See Rule 9(a)], the Clerk of the Supreme Court shall, upon receipt of the copy of the notice of appeal transmitted by the Superior Court, give notice to Appellant and counsel

for both parties that the appeal will be subject to dismissal, if:

- A) The required docket fee of \$250.00 is not received within ten (10) days of the Clerk's notice; or
- B) Where the Appellant is indigent,
 - (i) A motion to proceed on appeal in forma pauperis which shall include a supporting affidavit by Appellant, is not filed in the Supreme Court within ten (10) days of the Clerk's notice as required by Rule 12(a) of these Rules, and
 - (ii) A motion and order for appointment of counsel are not filed in the Supreme Court within ten (10) days of the Clerk's notice as required by Rule 12(b)(1)(C) and 12(b)(2)(C) of these Rules.

3) Enlargement of Time for Docketing Appeal.

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

4) Dismissal for Failure to Docket Appeal.

If the Appellant has failed to docket his appeal within the ten (10) day period or any extension period granted by this Court, the Court may dismiss the appeal on its own motion or the Appellee may file a motion to dismiss. The Appellee's motion shall be supported by a certificate of the Clerk of the Superior Court showing the date and substance of the judgment or order from which the appeal was taken, and the date on which the notice of appeal was filed. Copies of the motion and supporting papers shall be served upon both the appellant and his counsel, if any, and the motion shall also include proof of service. Appellant's counsel, if any, shall respond thereto within seven (7) days, stating why the appeal has not been docketed and advising whether he is retained or court-appointed counsel. The Clerk shall docket the appeal for purpose of permitting the court to entertain the motion

without requiring payment of the docket fee, but the appellant shall not be permitted to respond without payment of the fee unless he is otherwise exempt therefrom.

RULE 10 -- WRITS OF MANDAMUS AND PROHIBITION DIRECTED TO JUDGE OR JUDGES, AND OTHER EXTRAORDINARY WRITS

- a) Mandamus Or Prohibition To A Judge Or Judges;
Petition For Writ; Service And Filing.

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

- b) Denial; Order Directing Answer.

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

- c) Other Extraordinary Writs.

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

d) Form of Papers; Number of Copies.

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

e) Captions.

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

f) Certificate of Interested Parties.

Petitions for writs of mandamus or prohibition, and for other extraordinary writs, shall include the certificate as to interested parties required by Rule 16(k) and the statement of related cases required by Rule 16(p).

RULE 11 -- WRITS OF HABEAS CORPUS.

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

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

RULE 12 -- PROCEEDINGS IN FORMA PAUPERIS AND APPOINTMENT OF COUNSEL

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

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

- b) Appointment of Counsel.

- 1) Cases in which counsel was not appointed in the Superior Court of Guam.

(A) This subsection applies to all appeals in which (i) the Appellant was charged with a felony or misdemeanor (other than a petty offense as defined in section 1.18(e) of 9 G.C.A.), or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor, or with a violation of probation, or (ii) who is under arrest, when representation is required by law, or (iii) for whom the Sixth Amendment to the Constitution as incorporated by section 1421b(g) of Title 48 of the United States Code required the appointment of counsel, or (iv) for whom, in a case in which he faced a loss of liberty, any federal or local law required the appointment of counsel, and in which the appellant appeals in pro per. In every such case, the Clerk of the Supreme Court of Guam, when he receives a copy of the notice of appeal, shall notify the Appellant that he is entitled to be represented by counsel on appeal and that, if he is financially unable to obtain counsel, the Supreme

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

(B) Waiver.

The Clerk shall also notify the Appellant that if the Appellant does not desire the appointment of counsel, he shall so advise the Court, by filing with the Clerk a written statement to that effect, signed by the Appellant.

(C) Other Appeals.

In any other case in which the Appellant desires the appointment of counsel under federal or local law, he shall so advise the Clerk of the Supreme Court, complete attached Form 2 entitled "Application to Proceed in Forma Pauperis, Supporting Documentation and Order" as above provided, and forward it to the Clerk. The Clerk shall send the form to any Appellant who seeks appointment of counsel and does not, at the same time, file the form.

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

In all cases of the types described in

subsection (A)(i) through (iv) of Section (b)(1) of this Rule, in which a person had retained or court-appointed counsel in the Superior Court and desires to appeal, it shall be the duty of such retained or court-appointed counsel:

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

(B)(i) If such counsel is unable or unwilling to represent the person on appeal, to so notify his client in writing at the time that the notice of appeal is filed, and to file a copy of that notice with the notice of appeal and with the Clerk of the Supreme Court of Guam, with proof of service of the notice on his client.

(ii) Until new counsel is appointed by this court, or is retained by and appears for his client, counsel filing the notice of appeal shall take all steps required by these Rules to perfect and prosecute the appeal, and will be held personally responsible by the Supreme Court of Guam for any failure to do so, unless, he is upon motion, with notice to his client, relieved of that obligation by the Supreme Court of Guam.

(C) If the person appealing is financially unable to obtain representation on appeal, to apply for leave to permit Appellant to appeal in forma pauperis in accordance with Rule 12(a) of these Rules, and to apply for the appointment of counsel by filing with the Clerk of the Supreme Court, not later than ten (10) days after the notice of appeal is filed, a motion and order requesting for the appointment of counsel. The Chief Justice of this Court shall, unless good cause appears to the contrary, appoint trial counsel to continue representation of Appellant on appeal in the Supreme Court.

3) Compensation and Reimbursement for Court-Appointed Counsel.

Compensation, reimbursement and filing of claims for court-appointed counsel shall be made pursuant to the Supreme Court Rules.

RULE 13 -- FILING AND SERVICE.

a) Filing.

Papers required or permitted to be filed in the Supreme Court shall be filed with the Clerk. Filing may be accomplished by mail addressed to the Clerk, but filing shall not be timely unless the papers are received by the Clerk within the time fixed for filing, except that briefs and appendices shall be deemed filed on the day of mailing if the most expeditious form of delivery by mail excepting special delivery is utilized.

b) Service of all Papers Required.

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

c) Manner of Service.

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

d) Proof of Service.

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

e) Other Rules Regarding Filing by Facsimile Transmission.

(1) There shall be a \$5.00 transmission fee. In addition, for documents (motions, applications, or petitions) requiring copies, there shall be a fee of \$1.00 for each copy made.

If a document must be re-transmitted, for whatever reason, additional transmission fees will be charged for each re-transmission.

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

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

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

(5) All filings must be accompanied by a cover sheet stating the title of the document, the sender, the number of pages, the case caption and appeal number, the name of the parties, the number of copies the Clerk must make, and any other pertinent filing instructions.

(6) Unless otherwise permitted by the Court, the Clerk of this Court is not required to respond to facsimile inquiries to verify the receipt of a facsimile transmission. The Clerk may so respond to telephone inquiries.

(7) Except when simultaneous filings are required, e.g., Rule 7 (a), when a brief, excerpt of record, or memorandum is thereafter filed in support of a document filed by a facsimile, each copy of the brief, excerpt of record, or memorandum shall have attached to it a copy of the motion, application or petition that was filed by the facsimile process.

(8) All facsimile copies must be clear and legible. The Clerk will notify the sender by telephone that the copies transmitted were not clear and legible and that the sender must re-transmit. What is clear and legible shall be determined solely by the Clerk of this Court. When the Clerk must notify counsel and/or parties who are off-island, the Clerk will call collect.

(9) Any amendments to a filing require re-transmission of the entire filing, as amended. Single page corrections by facsimile will not be accepted.

(10) Original documents must be received by the Clerk within 14 days of the filing of the facsimile transmission. At the time of submitting the original documents, the party submitting shall pay the fees due hereunder. If originals are not timely submitted, and/or fees are not timely paid, the documents

transmitted by facsimile will not be considered proper filings, and the Court may make such orders as are just, including but not limited to an order striking papers, staying further proceedings until compliance is complete, or dismissing the proceeding, or any part thereof. Upon receipt of the original document and payment of all fees, the Clerk shall destroy the facsimile copy except the page where the file stamp appears.

RULE 14 -- COMPUTATION AND EXTENSION OF TIME.

“ a) Computation of Time.

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

b) Enlargement of Time.

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

c) Additional Time after Service by Mail.

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

RULE 15 -- STAY OR INJUNCTION PENDING APPEAL.

- a) Stay Must Ordinarily Be Sought in the First Instance in Superior Court; Motion for Stay in Supreme Court.

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

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

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

- c) Stay of Execution in Criminal Cases.

- 1) Imprisonment.

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

2) Fine.

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

3) Probation.

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

d) Stays Pending Appeal.

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

RULE 16 -- BRIEFS

a) Brief of the Appellant.

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

- 1) A table of contents, with page reference, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.
- 2) A statement of the issues presented for review and the standard of review for each issue.

- 3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. There shall follow a statement of the facts relevant to the issues presented for review, with appropriate reference to the record.
- 4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on. The argument shall include analysis and explanation of the appellant's contentions.
- 5) A short conclusion stating the precise relief sought.

b) Brief of the Appellee.

The brief of the appellee shall conform to the requirements of subsections (a)(1) - (4), except that a statement of the issues or of the case need not be made unless the appellee is dissatisfied with the statement of the appellant.

c) Reply Brief.

The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of court. All reply briefs shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the reply brief where they are cited.

If no reply brief is to be filed, appellant shall notify the Clerk and the appellee in writing of that decision prior to expiration of the time for filing the reply brief.

d) References In Briefs to Parties.

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

e) References In Briefs To The Record. References in the briefs to parts of the record reproduced in the excerpt filed with the brief of the appellant [See Rule 18(a)] shall be to the pages of the excerpt at which those parts appear. If the record is reproduced in accordance with the provisions of Rule 18(f), or if references are made in the briefs to parts of the record not reproduced, the references shall be to the pages of the part of the record involved; e.g. Answer p.7, Motion for Judgment p.2, Transcript p.231. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages of the excerpt at which the evidence was identified, offered, and received or rejected.

f) Reproduction of Statutes, Rules, Regulations, etc. If determination of the issues presented requires the study of statutes, rules, regulations, etc. or relevant parts thereof, they shall be reproduced in the brief or in the addendum [Rule 16(q)] at the end, or they may be supplied to the court in pamphlet form.

g) Length of Briefs. Except by prior permission of the Court, appellant's opening brief and appellee's response brief shall not exceed 50 pages, and any reply brief shall not exceed 25 pages, exclusive of pages containing the table of contents, table of citations and any addendum containing statutes, rules, regulations, etc.

h) Briefs In Cases Involving Cross Appeals. If a cross appeal is filed, the plaintiff in the court below shall be deemed the appellant for purposes of this rule and Rules 18 and 19, unless the parties otherwise agree or the Court otherwise orders. The brief of the appellee shall contain the issues and argument involved in his appeal as well as the answer to the brief of the appellant.

i) Briefs In Cases Involving Multiple Appellants Or Appellees. In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

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

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

Number and Caption of Case
Certificate Required by Rule 16(k)

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

Attorney of Record for Plaintiff/Defendant

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

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

1) The statutory basis of subject matter jurisdiction of the Superior Court;

2) The basis for claiming that the judgment or order appealed from is final or otherwise appealable, and the statutory basis of jurisdiction of this Court; and

3) The date of entry of the judgment or order appealed from, the date of filing of the notice of appeal or petition for review, and the statute or rule under which it is claimed the appeal is timely.

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

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

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

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

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

1) arise out of the same or consolidated cases in the Superior Court;

2) are cases previously heard in this Court which concern the case being briefed;

3) raise the same or closely related issues;

4) involve the same transaction or event; or

5) have any other similarities of which counsel believes the Court should be aware.

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

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

r) Computation. In addition to those items excluded from page limit computations by Rule 16(g), the certificate as to interested parties, statement of related cases and any addendum shall not be counted in determining the length of the brief. All other material in the brief, including all materials required by these rules, shall be counted in determining the length of the briefs, and none of the requirements of this rule is a

justification for filing a motion to exceed page limits. Parties must not append or incorporate by reference briefs submitted to the Superior Court or refer this Court to such briefs for their arguments on the merits of the appeal.

s) Motions To Exceed Page Limits. The Court looks with disfavor on motions to exceed the page limits in Rule 16(g) and such motions will be granted only for extraordinary and compelling reasons. A motion for permission to exceed page limits must be filed at least 14 days before the brief is due to be filed (7 days in the case of a reply brief) and must be accompanied by an affidavit stating in detail the reasons for the motion.

* t) Joint Briefs in Civil Cases. In civil cases involving more than one appellant or appellee, and in cases consolidated for purposes of the appeal, all parties on a side shall join in a single brief to the greatest extent practicable. Upon application, the Court may allow the joint parties up to 5 additional pages in which to discuss any differences in their positions.

u) Consequences of Filing a Non-Conforming Brief. If an appellant or appellee files a brief which substantially fails to meet the requirements of this rule, and does not file a conforming brief within the time permitted under Rule 19 below, the consequence shall be as provided in Rule 19(d).

RULE 17 -- BRIEF OF AMICUS CURIAE.

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

No reply brief of an amicus curiae will be received.

RULE 18 -- THE EXCERPTS OF RECORD.

a) Filing of the Excerpts of Record. At the time the appellant's brief is filed, the appellant shall file five copies of the excerpts of record bound separately from the briefs. The appellant shall serve an additional copy of the excerpts on each of the other parties.

b) Required Content of the Excerpts of record. The excerpts of record shall include:

1) the indictment in criminal cases;

2) the judgment or interlocutory order appealed from;

3) any other orders or rulings (whether written or delivered orally) sought to be reviewed, and the final pretrial order, and also the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues.

4) any opinion, findings of fact or conclusions of law, whether written or delivered orally by the Superior Court; and

5) any jury instructions given or refused which presents an issue on appeal.

c) Additional Items Which Shall Be Included In The Excerpts Of Record In Appropriate Circumstances.

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

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

d) Items Not To Be Included In The Excerpts Of Record. Except where they have independent relevance, the excerpts of record shall not include briefs or other memoranda of law filed in the Superior Court.

e) Form of the Excerpts of Record. The documents which comprise the excerpts of the record need not be certified as true copies, but if possible the Superior Court's "filed" stamp should appear on each document. The documents in the excerpts should be arranged by file date in chronological order. The five copies of the excerpts are to be reproduced on letter size white

paper by duplicating or copying process capable of producing a clear black image, and each copy must be bound at the top and have a tan cover. The excerpts must be either paginated or the documents marked with tabs corresponding to the tab number of the document in the Clerk's record. The excerpts must include an index with a description of the documents, exhibits and portions of the transcript contained therein and their corresponding page or tab numbers. The information on the front cover of the excerpts of record should be styled exactly as a brief except that the wording "Excerpts of Record" should be substituted for "Brief for Appellant."

f) Appellee's Supplemental Excerpts of Record. If appellee believes that the excerpts of record filed by the appellant exclude items which should be included under this rule, the appellee may, at the time the appellee's brief is filed, file supplemental excerpts of record, prepared pursuant to this rule, which include the omitted items. Appellee shall file five copies of the supplemental excerpts of record. The appellee shall serve one copy of the supplemental excerpts on each of the other parties.

g) Sanctions for Inclusion of Unnecessary Material in the Excerpts of Record. The Court in appropriate cases will impose sanctions against any attorney who vexatiously and unreasonably increases the cost of litigation by inclusion of unnecessary material in the excerpts of record. Counsel will be provided notice and have an opportunity to respond before sanctions are imposed.

h) Prisoner Petitions Without Representation By Counsel. In cases involving petitions of prisoners not represented by counsel, the Clerk of the Superior Court shall forward to the petitioner, within 21 days after the date the notice of appeal is filed, one copy of the documents to comprise the excerpts of the record.

RULE 19 -- FILING AND SERVICE OF BRIEFS

a) Time for Serving and Filing of Briefs.

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

(b) Number of Copies to be Filed and Served.

An original and three (3) copies of each brief shall be filed with the Clerk of the Supreme Court, unless the court by order in a particular case shall direct a lesser number, and one (1) copy shall be served on counsel for each party separately represented.

(c) Motion for Extension of Time for Filing Brief.

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

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

1) Appellant.

If an appellant fails to file his brief within the time provided by this Rule, or within the time extended, an appellee or the Supreme Court may move for dismissal of the appeal. In any case, the brief may thereafter be filed only upon order of the Chief Justice of this Court and late filing shall constitute a waiver of oral argument. The waiver may be set aside in the discretion of the Chief Justice of this Court.

2) Appellee.

If an appellee fails to file his brief within the time provided by this rule, or within the time extended, he shall be deemed to have waived oral argument. The waiver may be set aside in the discretion of the Chief Justice of this Court.

RULE 20 -- PREHEARING CONFERENCE.

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

RULE 21 -- ORAL ARGUMENT.

a) Notice of Argument; Postponement.

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

b) Time Allowed for Argument.

Unless otherwise provided by rule for all cases or for classes of cases, each side will be allowed ten (10) minutes for argument. If counsel is of the opinion that additional time is necessary for the adequate presentation of his argument, he may request such additional time as he deems necessary. Requests may be made by letter addressed to the Clerk of the Supreme Court reasonably in advance of the date fixed for the argument and shall be liberally granted if cause therefor is shown. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

c) Order and Content of Argument.

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

d) Cross and Separate Appeals.

A cross or separate appeal shall be argued with the initial appeal at a single argument, unless the court otherwise directs. If a case involves a cross appeal, the plaintiff in the action below shall be deemed the appellant for the purposes of this rule unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same argument, care shall be taken to avoid duplication of argument.

e) Non-appearance of Parties.

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

f) Submission of Briefs.

By agreement of the parties, a case may be submitted for decision on the briefs, but the court may direct that the case be argued.

g) Use of Physical Exhibits at Arguments; Removal.

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

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

RULE 22 -- CERTIFIED QUESTIONS.

(a) A federal court or the Superior Court of Guam pursuant to 7 G.C.A. §4105 may certify to this Court a question or proposition of law concerning a local law of Guam where the local law has not been clearly determined, and it is necessary or desirable to ascertain the local law in order to dispose of the federal court's or the Superior Court's proceeding. The certificate submitted shall contain a statement of the nature of the case and the facts on which the question or proposition of law arises. Only questions or propositions of law may be certified, and they must be distinct and definite. The Clerk of Court from which the case originates must certify the record and transmit it to this Court.

(b) When a case is certified or when the court declines certification, the Clerk will notify the respective parties and docket the case. Counsel shall then enter their appearances. After docketing, the certificate shall be submitted to the Court for a preliminary examination to determine whether the case shall be briefed, and/or set for argument. No brief may be filed prior to the preliminary examination of the certificate.

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

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

RULE 23 -- COSTS OF ATTORNEY'S FEES ON APPEAL.

a) After a hearing, if the Supreme Court shall determine that an appeal or cross-appeal is frivolous, it may award just damages and costs .

b) An original and three (3) copies of the request for attorney's fees shall be filed with the Clerk, with proof of service, within thirty (30) days after the entry of this Court's decision. The request must be filed separately from any cost bill.

A party who intends to request attorneys fees on appeal shall include in its opening brief a short statement of the authority pursuant to which the request will be made.

c) Any party from whom attorney fees are requested may file an opposition to the request. An original and three (3) copies of each opposition shall be filed with the Clerk, with proof of service, within fourteen (14) days after service of the request.

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

RULE 24 -- COSTS.

a) To Whom Allowed.

Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or ordered by the court; if a judgment is affirmed, costs shall be taxed against the appellant unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the appellee, unless otherwise ordered; if a judgment is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the court.

b) Costs on Appeal Taxable in the Superior Court.

Costs incurred in the preparation and transmission of the record, the costs of the reporter's transcript if necessary for the determination of the appeal, the premiums paid for costs of supersedeas bonds or other bonds to preserve rights pending appeal, and the fee for filing the notice of appeal shall be taxed in the Superior Court as costs of the appeal in favor of the party entitled to costs under this rule.

RULE 25 -- SUBSTITUTION OF PARTIES.

* a) Death of a Party.

If a party dies after a notice of appeal is filed or while a proceeding is otherwise pending in the Supreme Court, the personal representative of the deceased party may be substituted as a party on the motion filed by the representative or by any party with the Clerk of the Supreme Court. The motion of a party shall be served upon the representative in accordance with the provisions of Rule 13. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as the Supreme Court may direct. If a party against whom an appeal may be taken dies after entry of a judgment or order in the Superior Court before notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subsection. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by his personal representative, or, if he has no personal representative, by his attorney of record within the time prescribed by these rules. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this subdivision.

b) Substitution for Other Causes.

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

RULE 26 -- THE COMPOSITION OF THE SUPREME COURT;
DISMISSAL; OPINIONS; MANDATE.

a) The Composition of the Supreme Court.

The Supreme Court shall consist of three (3) judges. The concurrences of two (2) judges shall be necessary to any decision of the Supreme Court on the merits of an appeal, but the Chief Justice alone may make any appointment orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or these rules. The original opinions of the court shall be filed with the Clerk of the Supreme Court for preservation and when so filed, the same shall be deemed to be recorded.

b) Issuance of Mandate and Stay of Mandate.

When a case is finally determined, the Supreme Court shall issue its mandate to the Superior Court for the purpose of informing such court and for such further proceedings in the Superior Court as may be required. The mandate of this court shall issue twenty-one (21) days after the entry of judgment in criminal cases and forty-one (41) days after entry of judgment in civil cases, unless the time is shortened or enlarged by order. A formal mandate shall issue together with a certified copy of the opinion of this court. The Clerk may also include with the mandate a copy of the Ninth Circuit mandate and any opinions. The filing of a notice of appeal to the Ninth Circuit Court of Appeals will automatically stay the mandate until final disposition by the Ninth Circuit or, if a writ of certiorari is filed in the Supreme Court, until final disposition by the Supreme Court. Upon receipt of the mandate of the Ninth Circuit, the Clerk of this Court shall immediately issue the mandate of this Court.

RULE 27 -- DUTIES OF CLERKS.

a) The Clerk of the Supreme Court Shall Take the Oath and Give the Bond Required by Law.

Neither the Clerk nor any deputy clerk shall practice as an attorney or as counselor in any court while he continues in office. The office of the Clerk with the Clerk or a deputy in attendance shall be open during business hours on all days, except Saturdays, Sundays, and legal holidays, or when the Court is closed.

b) The Docket; Calendar; Other Records Required.

The Clerk shall keep a book or a suitable information retrieval system, known as a docket so the cases on appeal shall be

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

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

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

c) Notice of Orders or Judgements.

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

d) Custody of Records and Papers.

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

RULE 28 -- RULES BY THE SUPREME COURT OF GUAM.

The Supreme Court may from time to time make and amend rules governing its practices. In all cases not provided for by rule, the Supreme Court may regulate its practice in any manner.

RULE 29 -- TITLE.

These rules may be known and cited as the Rules of Appellate Procedure for the Supreme Court of Guam.

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APPENDIX OF FORMS

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FORM 1 -- NOTICE OF APPEAL

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

A.B.,)	CRIMINAL/CIVIL CASE NO. _____
)	
Plaintiff - [Appellant)	
" or Appellee,])	
)	
* vs.)	NOTICE OF APPEAL
)	
C.D.,)	
)	
Defendant - [Appellant)	
" or Appellee.])	
_____)	

TO THE CLERK OF THE SUPERIOR COURT OF GUAM:

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

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

Dated this _____ day of _____, 1993.

(Signature)

(Address)
Attorney for Appellant

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

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

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

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

[] Yes [] No

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

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? [] Yes [] No

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

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

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

Executed on _____
(Date)

Signature of Applicant

“
”

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 199__.

ORDER

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

Dated: _____

Justice for the Supreme Court of Guam

INSTRUCTIONS FOR CJA FORM 2 AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. ACCURACY AND THOROUGHNESS WILL AID IN THE PROMPT PAYMENT OF THE CLAIM.

USE A TYPEWRITER IF POSSIBLE. OTHERWISE WRITE LEGIBLY WITH BALLPOINT PEN AND BE SURE THAT WRITING GOES THROUGH TO THE LAST COPY.

IF ADDITIONAL SPACE IS NEEDED TO COMPLETE ANY ITEM ON THE FORM, ATTACH CONTINUATION SHEETS.

ITEM 1: JURISDICTION—Check the box that categorizes the type of court in which the transcript request is made. If you check the box "Other", be sure to specify the forum in the space provided.

ITEM 2-4: DOCKET NUMBERS—Self-explanatory.

ITEM 5: FOR (DISTRICT/CIRCUIT)—Enter the name of the district or circuit in which the transcript request is made.

ITEM 6: IN THE CASE OF—In criminal cases, enter U.S. vs. the defendant's name. If there is more than one defendant, enter only the name of the defendant who is the person represented (the person for whom the transcript services are requested). If the person represented is not a defendant (e.g., a material witness), enter the first named defendant in the court's recording of the case. If this is a civil case (e.g., habeas corpus, NARA), enter the name of the petitioner vs. the name of the respondent and include the respondent's title.

ITEM 7: PERSON REPRESENTED—Enter the full name of the person for whom representation is being provided (the person for whom the transcript services are requested). Only one "person represented" should be entered on each voucher.

ITEM 8: LOCATION/ORGANIZATION CODE—Obtain this number from the clerk of court.

ITEM 9: PROCEEDINGS IN WHICH TRANSCRIPT IS TO BE USED—Describe briefly the nature of the proceeding or other purpose for which the transcript is required (e.g., motion hearing, trial preparation, trial, appeal).

ITEM 10: PROCEEDINGS TO BE TRANSCRIBED—State specifically the type of proceedings to be transcribed (e.g., preliminary hearing, arraignment, plea, sentencing, trial, motions, parole or probation revocation proceedings, state court proceedings, deposition). Note the restriction on trial transcripts (see Item 13C).

ITEM 11: ATTORNEY'S STATEMENT—This must be signed and dated by counsel for the person represented (or by a person proceeding *pro se* under the CJA). Check the appropriate box to designate your status as an attorney from a Federal Public Defender Organization (FPD), a Community Defender Organization (CDO), a CJA panel attorney, a retained attorney whose client is unable to afford the cost of the transcript service, or a person who qualifies for representation under the CJA but who has chosen to proceed *pro se*.

ITEM 12: COURT ORDER—This must be signed and dated by the presiding judicial officer. No additional court order is necessary.

ITEM 13: SPECIAL AUTHORIZATIONS—These services may be provided only if specially authorized:

A. Apportionment of Transcript Costs—The Judicial Conference has stated that the total cost of accelerated transcript services should not be routinely apportioned among the parties.

B. Types of Transcripts—

- (1) Ordinary—to be delivered within 30 calendar days after receipt of an order.
- (2) Expedited—to be delivered within 7 calendar days after receipt of an order.
- (3) Daily—to be delivered following adjournment and prior to the normal opening hour of the court on the following morning, whether or not it actually is a court day.
- (4) Hourly—ordered under unusual circumstances to be delivered within 2 hours.

Note: All but *ordinary* transcript services require special prior judicial authorization.

C. Trial Transcripts—In the absence of special prior authorization, trial transcripts shall exclude the prosecution opening statement, the defense opening statement, the prosecution argument, the defense argument, the prosecution rebuttal, the voir dire and jury instructions.

D. Multi-defendant Cases—According to Judicial Conference policy, no more than one transcript should be purchased from the court reporter on behalf of CJA defendants in multi-defendant cases. Arrangements should be made for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost will be paid from CJA funds. This policy does not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate. In addition, the court may grant an exception to this policy based upon a finding that application of the policy will unreasonably impede the delivery of accelerated transcripts to persons proceeding under the CJA. See paragraph 3.12C of the *Guidelines for the Administration of the Criminal Justice Act*, Volume VII, *Guide to Judiciary Policies and Procedures*.

ITEM 14: JUDGE'S INITIALS—If any of the special authorizations noted in Item 14 are granted, the presiding judicial officer must initial in the space provided.

ITEMS 15-19: Self-explanatory.

ITEM 20: TRANSCRIPT COSTS—Cost per page of transcripts claimed by official court reporters, contract court reporters, and transcribers of taped proceedings may not exceed those rates in effect at the time authorization was made. A page of transcript shall consist of 25 lines typed on paper 8-1/2 x 11 inches in size, prepared for binding on the left side, with a 1-1/4 inch margin on the left side and a 3/8 inch margin on the right side. Typing shall be 10 letters to the inch. Generally, persons proceeding under the Criminal Justice Act may receive only the original or a copy of the transcript. Two lines for transcript costs have been provided to reflect that the page rate will vary depending upon whether the party received the original or a copy, and that certain portions may be provided at a higher rate for accelerated service. (If more lines are needed to reflect these factors, attach an additional sheet and record the information in the same format as on the form). Be sure to enter the page numbers for each segment of the transcript.

Note: Reimbursement of expenses may be claimed *only* for the following expenses: (1) Travel and subsistence of assistants who aid in preparation of daily or hourly transcript, if authorized in advance by the presiding judicial officer, and (2) Extraordinary delivery costs, such as courier services or express mail (regular postage is not reimbursable). Expenses claimed should be set forth specifically and receipts attached.

ITEM 21: CLAIMANT'S CERTIFICATION—Generally, the person providing the transcript services will sign here. However, if the attorney has already paid for the transcript, reimbursement may be sought on this form by signing the claimant's certification. In that event, the attorney also must be listed as payee at Item 17, and the information required at Items 17-19 should relate to the attorney.

ITEM 22: CERTIFICATION OF ATTORNEY OR CLERK—The purpose of this item is to obtain the attorney's verification of receipt of the transcript. Clerks of court may verify receipt on behalf of *pro se* persons, and on behalf of all Criminal Justice Act parties in districts where they are authorized to do so by local court rule.

ITEM 23: Self-explanatory.

ITEMS 24-25: APPROVED FOR PAYMENT—After reviewing for reasonableness and compliance with the CJA and CJA *Guidelines*, the presiding judicial officer must enter the amount approved in Item 25 and sign and date Item 24.

THE BOX IN THE UPPER RIGHT-HAND CORNER OF THE FORM SET OFF IN BOLD LINES IS FOR THE USE OF THE DISBURSING OFFICER.

AFTER THE TRANSCRIPT SERVICES HAVE BEEN RENDERED AND THE VOUCHER APPROVED, THE FORMS ARE TO BE DISPOSED OF AS FOLLOWS:

**ORIGINAL—MAILED TO ADMINISTRATIVE OFFICE AFTER DISBURSEMENT.
COPY 1—RETAINED BY DISBURSING OFFICER.
COPY 2—RETAINED IN COURT'S FILES
COPY 3—RETAINED BY PAYEE**

AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

VOUCHER NO.

PAID BY

ACCTG. CLASS. NOS.

DATE PAID

1. JURISDICTION 1 MAGISTRATE 2 DISTRICT
3 APPEALS 4 OTHER _____

2. MAG. DOCKET NO.

3. DISTRICT DOCKETING NO.

4. APPEALS DOCKET NO.

5. FOR (DISTRICT/CIRCUIT)

6. IN THE CASE OF _____ VS. _____

7. PERSON REPRESENTED

8. LOCATION/ORGANIZATION CODE

9. PROCEEDINGS IN WHICH TRANSCRIPT IS TO BE USED (DESCRIBE BRIEFLY)

10. PROCEEDINGS TO BE TRANSCRIBED (DESCRIBE SPECIFICALLY)
NOTE: Trial transcripts are not to include prosecution opening statement, defense opening statement, prosecution argument, defense argument, prosecution rebuttal, voir dire or jury instructions, unless specifically authorized by the Court (see Box 13C).

11. ATTORNEY'S STATEMENT
As the attorney for the person represented who is named above, I hereby affirm that the transcript requested is necessary for adequate representation. I therefore request authorization to obtain the transcript services at the expense of the United States pursuant to the Criminal Justice Act.

12. COURT ORDER
Financial inability of the person represented having been established to the Court's satisfaction, the authorization requested in Item 11 is hereby granted.

▶ SIGNATURE OF ATTORNEY _____ DATE _____

ATTORNEY'S TELEPHONE NO. _____

1 FPD 2 CDO 3 PANEL ATTORNEY
4 RETAINED ATTORNEY 5 PRO SE

▶ SIGNATURE OF JUDGE OR MAGISTRATE _____

DATE _____

3. SPECIAL AUTHORIZATIONS

A. Apportion % of transcript with _____

B. Expedited Daily Hourly Transcript

C. Prosecution Opening Statement Prosecution Argument Prosecution Rebuttal
 Defense Opening Statement Defense Argument Voir Dire Jury Instructions

D. In this multi-defendant case, commercial duplication of transcripts will impede the delivery of accelerated transcript services to persons proceeding under the Criminal Justice Act.

14. JUDGE'S INITIALS

14. A. _____

14. B. _____

14. C. _____

14. D. _____

CLAIM FOR SERVICES

1. COURT REPORTER/TRANSCRIBER STATUS
 Official Contract Transcriber Other

18. PAYEE'S ADDRESS (INCLUDE CITY, STATE AND ZIP CODE)

2. FULL NAME OF PAYEE

3. SOCIAL SECURITY OR EMPLOYER ID. NO. OF PAYEE

19. TELEPHONE NO.
AREA CODE () NUMBER

TRANSCRIPT	INCLUDE PG. NOS.	NO. OF PAGES	RATE PER PAGE	SUB-TOTAL	DED. AMT. APPORTIONED	TOTAL
Original			\$	\$	\$	\$
Copy			\$	\$	\$	\$
Expenses (Itemize):						\$

CLAIMANT'S CERTIFICATION
I hereby certify that the above claim is correct and that I have not claimed or received payment from any other source for the services rendered and claimed on this voucher.

22. CERTIFICATION OF ATTORNEY OR CLERK
I hereby certify that the transcript was received.

23. TOTAL CLAIMED
\$ _____

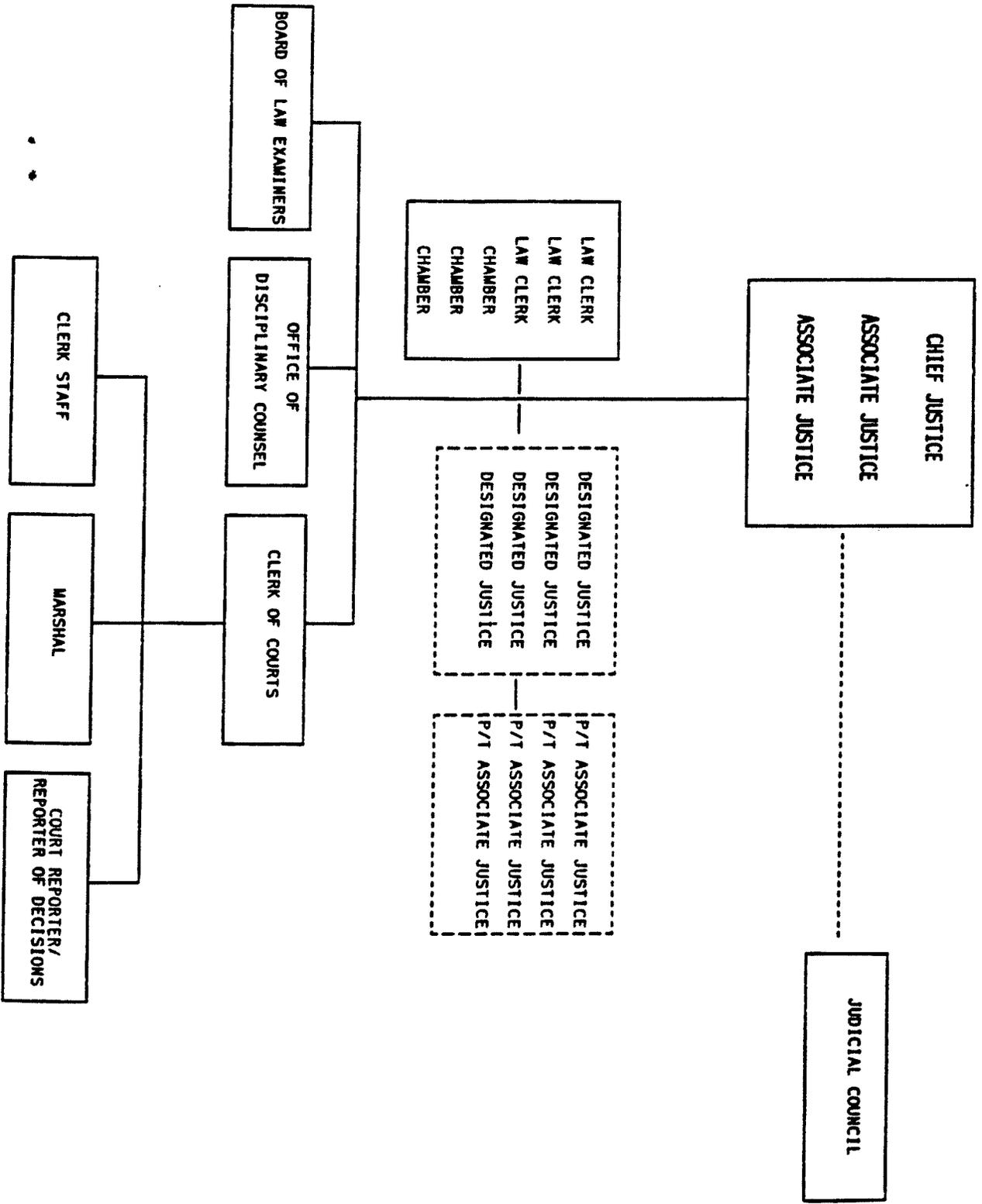
▶ CLAIMANT'S CERTIFICATION _____ DATE _____

▶ SIGNATURE OF ATTORNEY/CLERK OF COURT _____ DATE _____

APPROVED

25. AMT. APPROVED

ORGANIZATIONAL CHART PROPOSED



HAMBER - 1 CHAMBER CLERK
 LERK STAFF - INTAKE RECORDS BAILIFFS

APPENDIX OF FORMS

FORM 1 -- NOTICE OF APPEAL

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

A.B.,)	CRIMINAL/CIVIL CASE NO. _____
)	
Plaintiff - [Appellant)	
or Appellee,])	
)	
* vs.)	NOTICE OF APPEAL
)	
C.D.,)	
)	
Defendant - [Appellant)	
or Appellee.])	
_____)	

TO THE CLERK OF THE SUPERIOR COURT OF GUAM:

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

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

Dated this _____ day of _____, 1993.

(Signature)

(Address)
Attorney for Appellant

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

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

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

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

[] Yes [] No

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

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? [] Yes [] No

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

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

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

Executed on _____
(Date)

Signature of Applicant

“
”

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 199__.

ORDER

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

Dated: _____

Justice for the Supreme Court of Guam

INSTRUCTIONS FOR CJA FORM 20 AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. ACCURACY AND THOROUGHNESS WILL AID IN THE PROMPT PAYMENT OF THE CLAIM.

USE A TYPEWRITER IF POSSIBLE. OTHERWISE WRITE LEGIBLY WITH BALLPOINT PEN AND BE SURE THAT WRITING GOES THROUGH TO THE LAST COPY.

IF ADDITIONAL SPACE IS NEEDED TO COMPLETE ANY ITEM ON THE FORM, ATTACH CONTINUATION SHEETS.

ITEM 1: JURISDICTION—Check the box that categorizes the type of court in which the transcript request is made. If you check the box "Other", be sure to specify the forum in the space provided.

ITEM 2-4: DOCKET NUMBERS—Self-explanatory.

ITEM 5: FOR (DISTRICT/CIRCUIT)—Enter the name of the district or circuit in which the transcript request is made.

ITEM 6: IN THE CASE OF—In criminal cases, enter U.S. vs. the defendant's name. If there is more than one defendant, enter only the name of the defendant who is the person represented (the person for whom the transcript services are requested). If the person represented is not a defendant (e.g., a material witness), enter the first named defendant in the court's recording of the case. If this is a civil case (e.g., habeas corpus, NARA), enter the name of the petitioner vs. the name of the respondent and include the respondent's title.

ITEM 7: PERSON REPRESENTED—Enter the full name of the person for whom representation is being provided (the person for whom the transcript services are requested). Only one "person represented" should be entered on each voucher.

ITEM 8: LOCATION/ORGANIZATION CODE—Obtain this number from the clerk of court.

ITEM 9: PROCEEDINGS IN WHICH TRANSCRIPT IS TO BE USED—Describe briefly the nature of the proceeding or other purpose for which the transcript is required (e.g., motion hearing, trial preparation, trial, appeal).

ITEM 10: PROCEEDINGS TO BE TRANSCRIBED—State specifically the type of proceedings to be transcribed (e.g., preliminary hearing, arraignment, plea, sentencing, trial, motions, parole or probation revocation proceedings, state court proceedings, deposition). Note the restriction on trial transcripts (see Item 13C).

ITEM 11: ATTORNEY'S STATEMENT—This must be signed and dated by counsel for the person represented (or by a person proceeding *pro se* under the CJA). Check the appropriate box to designate your status as an attorney from a Federal Public Defender Organization (FPD), a Community Defender Organization (CDO), a CJA panel attorney, a retained attorney whose client is unable to afford the cost of the transcript service, or a person who qualifies for representation under the CJA but who has chosen to proceed *pro se*.

ITEM 12: COURT ORDER—This must be signed and dated by the presiding judicial officer. No additional court order is necessary.

ITEM 13: SPECIAL AUTHORIZATIONS—These services may be provided only if specially authorized:

A. Apportionment of Transcript Costs—The Judicial Conference has stated that the total cost of accelerated transcript services should not be routinely apportioned among the parties.

B. Types of Transcripts—

- (1) Ordinary—to be delivered within 30 calendar days after receipt of an order.
- (2) Expedited—to be delivered within 7 calendar days after receipt of an order.
- (3) Daily—to be delivered following adjournment and prior to the normal opening hour of the court on the following morning, whether or not it actually is a court day.
- (4) Hourly—ordered under unusual circumstances to be delivered within 2 hours.

Note: All but *ordinary* transcript services require special prior judicial authorization.

C. Trial Transcripts—In the absence of special prior authorization, trial transcripts shall exclude the prosecution opening statement, the defense opening statement, the prosecution argument, the defense argument, the prosecution rebuttal, the voir dire and jury instructions.

D. Multi-defendant Cases—According to Judicial Conference policy, no more than one transcript should be purchased from the court reporter on behalf of CJA defendants in multi-defendant cases. Arrangements should be made for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost will be paid from CJA funds. This policy does not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate. In addition, the court may grant an exception to this policy based upon a finding that application of the policy will unreasonably impede the delivery of accelerated transcripts to persons proceeding under the CJA. See paragraph 3.12C of the *Guidelines for the Administration of the Criminal Justice Act*, Volume VII, *Guide to Judicial Policies and Procedures*.

ITEM 14: JUDGE'S INITIALS—If any of the special authorizations noted in Item 14 are granted, the presiding judicial officer must initial in the space provided.

ITEMS 15-19: Self-explanatory.

ITEM 20: TRANSCRIPT COSTS—Cost per page of transcripts claimed by official court reporters, contract court reporters, and transcribers of taped proceedings may not exceed those rates in effect at the time authorization was made. A page of transcript shall consist of 25 lines typed on paper 8-1/2 x 11 inches in size, prepared for binding on the left side, with a 1-1/4 inch margin on the left side and a 3/8 inch margin on the right side. Typing shall be 10 letters to the inch. Generally, persons proceeding under the Criminal Justice Act may receive only the original or a copy of the transcript. Two lines for transcript costs have been provided to reflect that the page rate will vary depending upon whether the party received the original or a copy, and that certain portions may be provided at a higher rate for accelerated service. (If more lines are needed to reflect these factors, attach an additional sheet and record the information in the same format as on the form). Be sure to enter the page numbers for each segment of the transcript.

Note: Reimbursement of expenses may be claimed *only* for the following expenses:

- (1) Travel and subsistence of assistants who aid in preparation of daily or hourly transcript, if authorized in advance by the presiding judicial officer, and
- (2) Extraordinary delivery costs, such as courier services or express mail (regular postage is not reimbursable). Expenses claimed should be set forth specifically and receipts attached.

ITEM 21: CLAIMANT'S CERTIFICATION—Generally, the person providing the transcript services will sign here. However, if the attorney has already paid for the transcript, reimbursement may be sought on this form by signing the claimant's certification. In that event, the attorney also must be listed as payee at Item 17, and the information required at Items 17-19 should relate to the attorney.

ITEM 22: CERTIFICATION OF ATTORNEY OR CLERK—The purpose of this item is to obtain the attorney's verification of receipt of the transcript. Clerks of court may verify receipt on behalf of *pro se* persons, and on behalf of all Criminal Justice Act parties in districts where they are authorized to do so by local court rule.

ITEM 23: Self-explanatory.

ITEMS 24-25: APPROVED FOR PAYMENT—After reviewing for reasonableness and compliance with the CJA and CJA *Guidelines*, the presiding judicial officer must enter the amount approved in Item 25 and sign and date Item 24.

THE BOX IN THE UPPER RIGHT-HAND CORNER OF THE FORM SET OFF IN BOLD LINES IS FOR THE USE OF THE DISBURSING OFFICER.

AFTER THE TRANSCRIPT SERVICES HAVE BEEN RENDERED AND THE VOUCHER APPROVED, THE FORMS ARE TO BE DISPOSED OF AS FOLLOWS:

ORIGINAL—MAILED TO ADMINISTRATIVE OFFICE AFTER DISBURSEMENT.
COPY 1—RETAINED BY DISBURSING OFFICER.
COPY 2—RETAINED IN COURT'S FILES
COPY 3—RETAINED BY PAYEE

AUTHORIZATION AND VOUCHER FOR PAYMENT OF TRANSCRIPT

VOUCHER NO.
PAID BY
ACCTG. CLASS. NOS.
DATE PAID

JURISDICTION 1 <input type="checkbox"/> MAGISTRATE 2 <input type="checkbox"/> DISTRICT 3 <input type="checkbox"/> APPEALS 4 <input type="checkbox"/> OTHER _____	2. MAG. DOCKET NO.
DISTRICT DOCKETING NO.	4. APPEALS DOCKET NO.
5. FOR (DISTRICT/CIRCUIT)	

IN THE CASE OF _____ VS. _____

PERSON REPRESENTED	8. LOCATION/ORGANIZATION CODE
--------------------	-------------------------------

PROCEEDINGS IN WHICH TRANSCRIPT IS TO BE USED (DESCRIBE BRIEFLY)

PROCEEDINGS TO BE TRANSCRIBED (DESCRIBE SPECIFICALLY)
 NOTE: Trial transcripts are not to include prosecution opening statement, defense opening statement, prosecution argument, defense argument, prosecution rebuttal, voir dire or jury instructions, unless specifically authorized by the Court (see Box 13C).

ATTORNEY'S STATEMENT
 As the attorney for the person represented who is named above, I hereby affirm that the transcript requested is necessary for adequate representation. I therefore request authorization to obtain the transcript services at the expense of the United States pursuant to the Criminal Justice Act.

SIGNATURE OF ATTORNEY _____ DATE _____

ATTORNEY'S TELEPHONE NO. _____

1 FPD 2 CDO 3 PANEL ATTORNEY
 4 RETAINED ATTORNEY 5 PRO SE

12. COURT ORDER
 Financial inability of the person represented having been established to the Court's satisfaction, the authorization requested in Item 11 is hereby granted

SIGNATURE OF JUDGE OR MAGISTRATE _____

DATE _____

SPECIAL AUTHORIZATIONS

A. Apportion _____ % of transcript with	14. JUDGE'S INITIALS
B. <input type="checkbox"/> Expedited <input type="checkbox"/> Daily <input type="checkbox"/> Hourly Transcript	14. A.
C. <input type="checkbox"/> Prosecution Opening Statement <input type="checkbox"/> Prosecution Argument <input type="checkbox"/> Prosecution Rebuttal <input type="checkbox"/> Defense Opening Statement <input type="checkbox"/> Defense Argument <input type="checkbox"/> Voir Dire <input type="checkbox"/> Jury Instructions	14. B.
D. <input type="checkbox"/> In this multi-defendant case, commercial duplication of transcripts will impede the delivery of accelerated transcript services to persons proceeding under the Criminal Justice Act.	14. C.
	14. D.

CLAIM FOR SERVICES

COURT REPORTER/TRANSCRIBER STATUS <input type="checkbox"/> Official <input type="checkbox"/> Contract <input type="checkbox"/> Transcriber <input type="checkbox"/> Other	18. PAYEE'S ADDRESS (INCLUDE CITY, STATE AND ZIP CODE)
FULL NAME OF PAYEE	
SOCIAL SECURITY OR EMPLOYER ID. NO. OF PAYEE	19. TELEPHONE NO. AREA CODE () NUMBER

TRANSCRIPT	INCLUDE PG. NOS.	NO. OF PAGES	RATE PER PAGE	SUB-TOTAL	DED. AMT. APPORTIONED	TOTAL
Original			\$	\$	\$	\$
Copy			\$	\$	\$	\$
Expenses (Itemize):						\$

CLAIMANT'S CERTIFICATION I hereby certify that the above claim is correct and that I have not claimed or received payment on any other source for the services rendered and claimed on this voucher.	22. CERTIFICATION OF ATTORNEY OR CLERK I hereby certify that the transcript was received.	23. TOTAL CLAIMED \$
CLAIMANT'S CERTIFICATION _____ DATE _____	SIGNATURE OF ATTORNEY/CLERK OF COURT _____ DATE _____	25. AMT APPROVED

APPROVED



Chambers of
Hon. Katherine A. Maraman
Judge

Superior Court of Guam
Judicial Center
120 West O'Brien Drive
Agana, Guam 96910
Telephone: (671) 475-3589 / 3581
Fax: (671) 477-1500



February 1, 1995

The Honorable Mark C. Charfauros
Chairman
Committee on Judiciary, Criminal Justice
and Environmental Affairs
Twenty-Third Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Chairman:

Thank you for inviting me to testify regarding Bill No. 53.

Implementing the law creating the Guam Supreme Court is a step towards Guam's greater self government. Unfortunately, it is not a full step because of the federal government's reservation of direct supervision over Guam's courts by the Ninth Circuit Court of Appeals.

The Rules of Appellate Procedure should be approved by the Legislature without amendment as set out in Section 2 of the measure.

If the Judicial Branch is to be truly a separate and co-equal branch then Section 3 of the bill should be amended to remove the requirements that the Supreme Court submit any of its rules and staffing pattern to the Governor and the Legislature for enactment as required by the Administrative Adjudication Act, as amended in Public Law 22-96. Specifically, I recommend that on page 2 of the bill, at line 5 a period be inserted after the word "same" and the remainder of the section be deleted.

In closing, I urge the Legislature to pass Bill 53.

Cordially,


KATHERINE A. MARAMAN



Chambers of
Janet Healy Weeks
Judge

Superior Court of Guam
Judicial Center
120 West O'Brien Drive
Agana, Guam 96910
Tel: (671) 475-3150 • Fax: (671) 477-3184

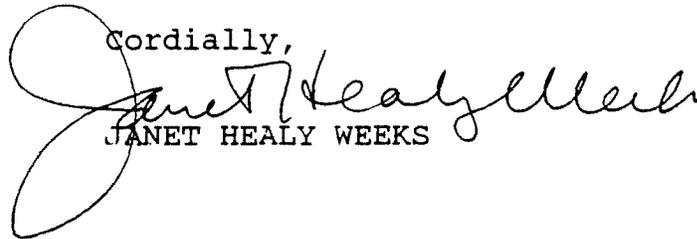
February 01, 1995

Dear Chairman Charfauros,

Thank you for your invitation to participate in the hearing on Bill 53 before your Committee. My hearing calendar this morning is full and since some of these cases were rescheduled once, I was uncomfortable in not going forward with them today.

The present bill which in most respects is like the one we judges approved earlier, as part of the Rules Committee, appears satisfactory in all respects.

Cordially,


JANET HEALY WEEKS

SENATOR MARK C. CHARFAUROS

CHAIRMAN

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Ada's Commercial and Professional Bldg.

138 East Marine Drive

Suite 101-C Annex

Agana, Guam 96910

Tel: (671) 472-3343/5

Fax: (671) 472-3440

FACSIMILE COVER SHEET

To: _____

From: K-Stereo

Subject: Public Hearing Notice -- News Release

Comments:

Because the Public Hearing is scheduled for
tomorrow we would appreciate if the announcement could
be announce on the air continuously throughout the day -
(1/31/95). Thank you TODAY

Transmitting 2 pages including this cover sheet. If there are any questions, please

contact Sharon Mundo at the above telephone number.

This message being sent to fax No.:

477-4411

SENATOR MARK C. CHARFAUROS

CHAIRMAN

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Ada's Commercial and Professional Bldg.

138 East Marine Drive

Suite 101-C Annex

Agana, Guam 96910

Tel: (671) 472-3343/5

Fax: (671) 472-3440

FACSIMILE COVER SHEET

To: Dave R.

From: K-57 + Power 98

Subject: Public Hearing Notice - NEWS RELEASE

Comments:

Because the Public Hearing is scheduled for tomorrow, we
would appreciate if the announcement could be announce on
the air continuously through out the day -- TODAY
(1/31/95) . Thank you

Transmitting 2 pages including this cover sheet. If there are any questions, please
contact Sharon Mundo at the above telephone number.

This message being sent to fax No.:

477-3982

SENATOR MARK C. CHARFAUROS

CHAIRMAN

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Ada's Commercial and Professional Bldg.

138 East Marine Drive

Suite 101-C Annex

Agana, Guam 96910

Tel: (671) 472-3343/5

Fax: (671) 472-3440

FACSIMILE COVER SHEET

To:

Jimmy Jam

From:

Hit Radio 100.3

Subject:

Public Hearing Notice -- News Release

Comments:

Because the Public Hearing is scheduled for tomorrow
we would appreciate if the announcement could be aired
continuesly through out the day. -- Today (1/31/95) Thank you
2

Transmitting 2 pages including this cover sheet. If there are any questions, please

contact

Sharon Mundo

at the above telephone number.

This message being sent to fax No.:

477-7663

Notice of Public Hearing

Senator Mark C. Charfauros

Chairman
Committee on Judiciary, Criminal Justice
and Environmental Affairs
Twenty-Third Guam Legislature

Bill No. 53 - AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES.

Date: February 1, 1995

Time: 9:00 a.m.

**Place: Public Hearing Room,
Guam Legislature Temporary, Building
Agana, Guam**

The Public is invited to attend

Carole News

TRANSACTION REPORT

SEND

RECEIVER

PAGES

NOTE

671 477 7847

2

OK

TRANSACTION REPORT

SEND

NOTE

PAGES

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KUAM - cold

* 6716379865 2 OK
* RECEIVER PAGES NOTE
* SEND
* TRANSACTION REPORT
* *Island News*

* 6714773982 2 OK
* RECEIVER PAGES NOTE
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* TRANSACTION REPORT
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Introduced

MAR 13 1995

**TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION**

Bill No. 53 (LG)

Introduced by:

M.C. Charfauros 

AN ACT TO ENACT THE RULES OF APPELLATE PROCEDURE FOR THE SUPREME COURT OF GUAM AND TO AMEND SUBSECTION (d) OF §1103, TITLE 7, GUAM CODE ANNOTATED, ON THE EFFECTIVE DATE OF SUCH RULES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 **SECTION 1. Legislative statement and findings.** The Legislature passed substitute
2 Bill No. 102, subsequently signed into law (Public Law No 21-147) by the Governor. Public
3 Law 21-147 contained a provision calling for the creation of a thirteen (13) member Rules
4 Commission which was tasked with developing proposed rules and regulations to govern the
5 operation of the Judicial Branch. The Commission consisted of all six Superior Court Judges,
6 four (4) practicing and locally-licensed attorney from the Guam Bar Association, and three (3)
7 residents-at-large, who drafted rules of court, appellate and ethical procedures, organization
8 and other matters pertaining to the operation and functions of the Guam Supreme Court. The
9 Legislature further finds that from July 21, 1993 to September 7, 1993, the Commission met
10 weekly and on September 13, 1993, transmitted its proposed Rules of Appellate procedure for
11 the Supreme Court of Guam to the Judicial Council for review and final transmittal to the
12 Legislature, as required by law. The Legislature further notes that the Judicial Council, having
13 reviewed the proposed rules, transmitted the same to the Legislature on November 16, 1993

1 for enactment. The Legislative Committee on Judiciary and Criminal Justice conducted a
2 public hearing on the proposed rules on Thursday, March 3, 1994. A subsequent hearing was
3 held on Friday, May 6, 1994 to discuss operational costs. It was recommended that
4 appropriations for the operation of the Supreme Court be addressed separately.

5 **SECTION 2. Adoption of Rules and Appendices.** The Rules of Appellate Procedure of
6 the Supreme Court of Guam, as drafted and approved by the Supreme Court Task Force and the
7 Judicial Council, are hereby approved by the Legislature, in their entirety, inclusive of the
8 appendices, and they shall take effect sixty (60) days after this Act goes into effect.

9 **SECTION 3. Amendment.** §1103 of Title 7, Guam Code Annotated, is hereby amended
10 to read:

11 "(d) **Adoption of rules of court.** Within thirty (30) days after May 1, 1993, the Presiding
12 Judge of the Superior Court shall appoint a commission (the "Rules Commission") to draft
13 proposed new rules and procedures to govern the operation of the Judicial Branch as reorganized
14 by this Act ("the Rules"). The Rules Commission shall consist of thirteen (13) members, of
15 whom six shall be sitting Judges of the Superior Court, four (4) shall be attorneys admitted to
16 practice in Guam and members of the Guam Bar Association, and three (3) shall be lay
17 persons who are residents of Guam, citizens of the United States, and good reputation. At its
18 first sitting, the Rules Commission shall elect a chairperson from among its members, and
19 shall adopt a schedule of public hearings and meetings during which the Rules shall be
20 considered and recommended for adoption. The Superior Court shall furnish personnel and
21 other logistic support to the Rules Commission, which, in addition to the Rules, shall consider
22 and make recommendations on the staffing pattern of the Judicial Branch as reorganized by
23 this Act. When the Rules Commission has concluded its studied and has agreed upon the
24 proposed Rules and staffing pattern, it shall submit the same to the Judicial Council, which
25 shall in turn submit them to the Legislature, without any changes therein, although it may
26 make recommendations to the Legislature thereon. The Rules Commission shall cease to exist
27 thirty (30) days after its submission to the Judicial Council. The Legislature, without the
28 forty-five-(45-)day limitation of the Administrative Law (the "AAL"), may by statute, approve
29 such Rules and staffing pattern or modify them as it deems fit. After the effective date of the
30 Rules and staffing pattern, the Governor shall appoint the Justices and Judges authorized by

1 this Act. Upon the due appointment and confirmation of such Justices and Judges, the
2 Justices, sitting **en banc**, shall review the Rules and staffing pattern, and may approve or
3 modify the same, which Rules and staffing pattern of the Supreme Court as so adopted by the
4 Justices shall be deemed proposed rules and regulations adopted by an autonomous agency of
5 the government of Guam pursuant to the Administrative Adjudication Law and shall therefore
6 be transmitted to the Legislature which shall consider them in the manner and under the time
7 limitations as set out in the Administrative Adjudication Law. "

8 **SECTION 4. Title.** This Act shall be cited and referred to as "The Supreme Court of
9 Guam Rules of Appellate Procedure Act".