



Republic of Guam

ADMINISTRATIVE OFFICE OF THE COURTS
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F. PHILIP CARBULLIDO
CHIEF JUSTICE

PERRY C. TAITANO
ADMINISTRATOR OF THE COURTS

December 11, 2007

Guam Bar Association Board of Directors
c/o Rawlen Mantanona, President
Guam Bar Association
Bank Pacific Building, 2nd Floor
825 South Marine Corps. Drive
Tamuning, Guam 96911

Re: Proposed Amendments to Rules 1 and 5(g) of the Guam Rules of Civil Procedure

Dear Board of Directors:

On June 1, 2007 the Supreme Court under Promulgation Order No. 06-006-02 adopted the revised Guam Rules of Civil Procedure and Local Rules of the Superior Court of Guam. Since the effective date of the revised Rules, specifically GRCP 5(g), the Superior Court clerk's office commenced service of court documents through the attorneys' court boxes which are now located in the clerk's office.

On December 6, 2007, the Clerk of Court filed a report recommending that the Supreme Court promulgate the amendments to GRCP 1 and 5(g). Attached is a proposed Promulgation Order which would amend such rules after receipt of public comment.

Written comment on the proposed amended Rules 1 and 5(g) of the Guam Rules of Civil Procedure may be sent no later than January 10, 2008 to drosete@guamsupremecourt.com or to the following address:

Supreme Court of Guam
Suite 300 Guam Judicial Center
120 West O'Brien Drive
Hagatna, Guam 96910

Justice Robert J. Torres, Jr.
Co-Chairperson

Judge Katherine A. Maraman,
Co-Chairperson

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3 **IN THE SUPREME COURT OF GUAM**
4

5 **RE:**) Supreme Court Case No.
6 **ADOPTION OF THE GUAM**) PRM 06-006
7 **RULES OF CIVIL PROCEDURE and**) **[PROPOSED]**
8 **LOCAL RULES OF THE**) **PROMULGATION ORDER**
) **NO. 06-006-0__**

9 The Subcommittee on Rules of Civil Procedure and Rules of Court Revisions was created
10 for the purpose of reviewing and proposing changes to the Rules of Civil Procedure for the Superior
11 Court of Guam and the Rules of the Superior Court of Guam, located at Appendices A and B
12 respectively of Title 7 of the Guam Code Annotated. On June 1, 2007 upon the recommendation
13 of the Subcommittee, the Supreme Court under Promulgation Order No. 06-006-02 adopted the
14 revised Guam Rules of Civil Procedure and Local Rules of the Superior Court of Guam. On
15 December 6, 2007 a report from the Clerk of Court for the Superior Court of Guam was filed
16 recommending that the Supreme Court promulgate the proposed amendments to Rules 1 and 5(g)
17 of the Guam Rules of Civil Procedure.

18 Rule 5(g) of the Guam Rules of Civil Procedure states:

19 **Service By The Court.** The court may serve an attorney with orders, judgments,
20 notices, or any other documents by depositing the same into a box maintained for that
21 attorney at the clerk's office. Service shall be deemed complete upon depositing the
22 same into the box.

23 In order to clarify service by the court through an attorney's court box, the amendment of
24 Rule 5(g) is required. Such amendment shall apply in all civil and criminal cases. In addition,
25 because service by the court is allowed in civil and criminal cases, the amendment of Rule 1 of the
26 Guam Rules of Civil Procedure is also required.

27 Therefore, pursuant to the authority to "make and promulgate rules governing the
28 administration of the judiciary and the practice and procedure in the courts of the judicial branch of
Guam," 48 U.S.C. § 1424-1(a)(6), the Supreme Court hereby adopts and promulgates, the following

1 amendments to Rule 1 and Rule 5(g) of the Guam Rules of Civil Procedure.

2 Rule 1 shall read:

3 **Scope of Rules.** These rules govern the procedure in all suits of a civil nature,
4 including civil actions, domestic actions, special proceedings and criminal matters
5 of which the court has jurisdiction. Their application to criminal matters are limited
6 to Rules 5(g), 78, 79(c), 84, 91 and 93. They shall be construed and administered to
7 secure a just, speedy, and inexpensive determination of every action.

8 Rule 5(g) shall read:

9 **Service by the Court.** The court may serve an attorney with orders, judgments,
10 notices, or any other documents by depositing the same into a box maintained for that
11 attorney at the Superior Court of Guam's Clerk of Court's office. Service shall be
12 deemed complete upon depositing the same into the box. All active members of the
13 Guam Bar Association engaged in the active practice of law on Guam and affiliated
14 with a law office on Guam shall be assigned a court box. The Clerk of Court may
15 organize the attorney court boxes as he deems appropriate to maximize efficiencies.
16 This rule shall apply to civil cases as well as criminal cases as contemplated by Title
17 8 GCA Section 1.29(b).

18 The amendments shall apply to all actions, cases and proceedings brought after the instant
19 Promulgation Order takes effect and to all actions, cases and proceedings commenced prior to the
20 effective date hereof and still pending, except to the extent that the application of the amended Rules
21 to those pending actions, cases and proceedings would not be feasible, or would work injustice, in
22 which event the prior valid Guam Rules of Civil Procedure shall apply.

23 **SO ORDERED**, this _____ day of December, 2007.

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29 **KATHERINE A. MARAMAN**
30 Justice *Pro Tempore*

31 **ROBERT J. TORRES**
32 Associate Justice

33 **F. PHILIP CARBULLIDO**
34 Chief Justice