United States District Court
for the
Northern Mariana Islands
P.O. Box 687
Saipan, MP 96950

Alex R. Munson
Judge

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June 24, 1993

Court Administration Division
Administrative Office of the
United States Courts
Washington, DC 20544

Dear Sir:

Please find enclosed a copy of the newly revised Local Rules of the U.S. District for the Northern Mariana Islands which become effective July 1, 1993. They are being sent pursuant to Section 401(b) of the Judicial Improvements and Access to Justice Act of 1988.

Sincerely,

Faye Crozat

Faye M. Crozat
Judge Munson's Secretary

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

In the Matter of LOCAL RULES OF COURT	ORDER ADOPTING LOCAL RULES

IT IS ORDERED THAT:

1. The attached Local Rules for the United States District Court for the Northern Mariana Islands are adopted effective July 1, 1993. These Rules supersede and repeal all previous Local Rules.

2. Copies of this Order and of the attached Local Rules shall be made available to the public and furnished to the Judicial Council and the Administrative Office of the United States Courts as required by Federal Rule of Criminal Procedure 77 and to the United States Supreme Court as required by Federal Rule of Civil Procedure 83.

DATED this 23rd day of June, 1993, at Saipan, Commonwealth of the Northern Mariana Islands.

Alex R. Munson
Chief Judge

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[In keeping with the convention, these Admiralty Rules are lettered, rather than numbered.]

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STANDARDS OF PROFESSIONAL CONDUCT*

The following standards of practice are to be observed by attorneys appearing in this Court:

In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

A lawyer owes to the judiciary candor, diligence and utmost respect.

A lawyer owes to opposing counsel a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

A lawyer unquestionably owes to the administration of justice the fundamental duties of personal dignity and professional integrity.

Lawyers should treat each other, the opposing party, the Court, and members of the Court staff with Courtesy and civility and conduct themselves in a professional manner at all times.

A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.

If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.

Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

*These standards are incorporated into L.R. 110-3.

CHAPTER I - GENERAL RULES

Rule 100

TITLE; EFFECTIVE DATE OF THESE RULES; COMPLIANCE AND CONSTRUCTION; SESSIONS OF Court

100-1. Title.

These are the Local Rules of Practice for the United States District Court for the Northern Mariana Islands. They shall be cited as "L.R. ____."

100-2. Effective Date; Transitional Provision.

These Rules govern all proceedings pending on or commenced after July 1, 1993. Where justice requires, the judge may order that a proceeding pending before the Court prior to that date be governed by the prior practice of the Court.

100-3. Sanctions and Penalties for Noncompliance.

The failure of counsel or of a party to comply with any of these Rules is a ground for the imposition of sanctions.

100-4. Scope of the Rules; Construction.

These Rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. These Rules shall be construed consistently with the Federal Rules to promote the just, efficient, and economical determination of every

proceeding. The provisions of the General and Civil Rules shall apply to all proceedings, including criminal and admiralty proceedings, except where they may be inconsistent with Rules or provisions of law specifically applicable thereto.

100-5. Procedure in Absence of Rule.

When a procedural question arises which is not directly covered by a United States statute, by the Federal Rules of Civil Procedure, by the Federal Rules of Criminal Procedure, or by these Rules, the Court shall resolve the question, if possible, by applying the parallels or analogies furnished by United States statutes, by federal procedural Rules, or by these Rules. If there are no parallels or analogies furnished, the Court shall apply the procedure heretofore prevailing in the United States Courts. If there are no parallels or analogies furnished by United States statutes, by federal procedural Rules, by these Rules, or by the procedure heretofore prevailing in United States Courts, the Court may proceed in any lawful manner consistent with the United States Constitution, United States statutes, federal procedural Rules, or these Rules.

100-6. Definitions.

(a) The word "Court" refers to the United States District Court for the Northern Mariana Islands, and not to any particular judge of the Court.

(b) The word "Judge" refers to any United States District Judge, or to a Designated Judge assigned pursuant to 48 U.S.C. § 1694(b)(2), or to a part-time or full-time United States Magistrate who exercises jurisdiction in a particular proceeding.

(c) The word "Clerk" means the Clerk for the District Court of the Northern Mariana Islands.

100-7. Time Computation.

Federal Rule of Civil Procedure 6 controls the manner for computing any period of time prescribed or allowed by these Rules, except that only seven calendar days will be allowed to file a reply brief to a motion. See, L.R. 220-3.

100-8. Regular Sessions; Other Sessions.

The Court shall be in continuous session in Saipan, Commonwealth of the Northern Mariana Islands. The Court may order sessions to be held at places within the Commonwealth other than Saipan.

100-9. Calendaring Conflicts.

(a) Counsel's Duty to Notify Court. Within 48 hours of learning of a scheduling conflict between this Court and any other Court, counsel shall notify the presiding judge or clerk of this Court. The judge shall consider the following factors in resolving the conflict:

(1) Whether a case is criminal, with attendant speedy trial concerns, or civil;

(2) Whether out-of-town witnesses, parties, or counsel are scheduled to attend a case;

(3) Age of the case;

(4) Which matter was set first;

(5) Any other factor which weighs in favor of one case over the other.

100-10. Interpreters and Translators; Civil and Criminal Matters.

(a) In civil matters, the parties must, more than thirty days prior to the trial date, secure the services of an interpreter or translator who is acceptable to all parties. The Court maintains a list of persons willing to act as interpreters or translators. If the parties are unable to agree on an interpreter or translator, they must notify the Court more than thirty days prior to trial and the Court will appoint and compensate an interpreter of its own choosing, pursuant to Federal Rule of Civil Procedure 43(f), or its successor. The compensation shall be paid out of funds provided by law or by one or more of the parties as the Court may direct, and may be taxed ultimately as costs, in the discretion of the Court.

(b) In criminal matters, the parties must, more than thirty days prior to the trial date, secure the services of an interpreter or translator who is acceptable to all parties. The Court maintains a list of persons willing to act as interpreters or translators. If the parties are unable to agree on a translator, the Court will then appoint a translator or interpreter pursuant to Federal Rule of Criminal Procedure 28, or its successor.

Rule 110

ATTORNEYS - ADMISSION TO PRACTICE - STANDARDS OF CONDUCT - DUTIES

110-1. Admission to this Court's Bar.

(a) Admission to Practice. Admission to and continued membership in this Court's bar is limited to attorneys of good moral character who are active members in good standing of the Commonwealth Supreme Court bar or, if admitted pro hac vice, of any United States Court or the highest Court of any State, Territory, or Commonwealth of the United States.

(b) Procedure for Admission.

(1) Each applicant for admission to this Court's bar shall file with the Clerk a verified petition for admission, stating the applicant's full name, residence address, office address, the applicant's law school and date of graduation, the names of the Courts before which the applicant is admitted to practice, and the respective dates of admission to those Courts. An applicant must be a member in good standing of the Commonwealth Supreme Court bar.

If the Clerk finds that the petition for admission complies with these requirements, the Clerk or his authorized deputy shall administer the oath of admission to the applicant and shall issue to the applicant a certificate of admission. The Clerk may refer to the Judge for further instructions any petition about which the Clerk has any question.

At the time the applicant files the petition, the applicant shall pay to the Clerk the admission fee fixed by the Judicial Conference of the United States.

The oath of admission shall be as follows:

> I solemnly swear (or affirm) that I will support the Constitution and laws of the United States; that I will bear true allegiance to the United States; that I will maintain due respect for United States Courts and Judicial Officers; and that I will conduct myself conscientiously as an attorney of this Court.

(2) Any attorney so admitted and any attorney previously admitted who would now be eligible for admission under subsection (a) of this Rule shall be deemed to be an active member of this Court's bar while residing in and having an office in the Northern Mariana Islands.

(3) Any attorney admitted to practice before this Court, but who does not reside in and have an office in the Northern Mariana Islands, may practice only by associating local counsel as required by subsection (f) of this Rule.

(c) Attorneys for the United States and the Commonwealth. Any attorney who is a member in good standing of the bar of the highest Court of any state and who is employed by the United States, the Commonwealth government, the Public Defender, or Micronesian Legal Services Corporation shall be eligible to practice before this Court while so employed. Every attorney allowed to appear in this Court under this subsection shall comply with the requirements of subsection (b)(1), above, except that no fee need be paid and the petition shall be for temporary admission, only.

(d) Pro Hac Vice. Upon written application approved in the Judge's discretion, an attorney who is a member in good standing of the bar of any United States Court or

of the highest Court of any State, Territory, or Commonwealth of the United States, who is of good moral character, and who has been retained to appear in this Court, may appear and participate in a particular case subject to the conditions of this Rule. Unless otherwise authorized by the United States Constitution or Acts of Congress, an attorney is ineligible to practice under this section if: (i) the attorney resides in the Northern Mariana Islands; or (ii) the attorney is regularly employed in the Northern Mariana Islands, except by the CNMI government; or (iii) the attorney regularly engages in business, professional, or other activities in the Northern Mariana Islands.

The pro hac vice application shall be presented to the Clerk and shall state under penalty of perjury: (i) the attorney's residence and office address; (ii) the attorney's law school and date of graduation; (iii) by what Court(s) the attorney has been admitted to practice and the date(s) of admission; (iv) that the attorney is in good standing and eligible to practice in the Court(s); (v) that the attorney is not currently suspended or disbarred in any Court; and (vi) if the attorney has concurrently or within the year preceding the current application made any pro hac vice application in this Court, the title and the number of each matter wherein the attorney made application, the date of application, and whether or not the application was granted. The attorney shall also designate in the application a member of this Court's bar with whom the Court and opposing counsel may readily communicate regarding the conduct of the case and upon whom papers may be served. The attorney shall file with the application the address, telephone number and written consent of the attorney's designee.

The pro hac vice application shall also be accompanied by payment to the Clerk

of a $50.00 fee, which the Clerk shall place to the credit of the Court's Library (Miscellaneous) Fund. If the pro hac vice application is denied, the Court may refund any or all of the assessment paid by the attorney. If the application is granted, the attorney is subject to the Court's jurisdiction with respect to the attorney's conduct to the same extent as a member of this Court's bar.

(e) Notice of Change of Status. An attorney who is a member of this Court's bar or who practices in this Court under subsection (d) of this Rule shall promptly notify the Court of any change or potential for a change in his or her status in another jurisdiction which could make him or her ineligible either for membership in this Court's bar or to practice in this Court under subsection (d) of this Rule. See, also, Disciplinary Rules, attached hereto as Appendix A.

(f) Designation of Local Counsel. An attorney applying to practice before this Court under subsections (b)(3) or (d) of this Rule, shall associate as co-counsel an attorney who is an active member in good standing of this Court's bar. The associated local counsel shall at all times meaningfully participate in the preparation and trial of the case with the full authority and responsibility to act as attorney of record for all purposes. Any document required or authorized to be served on counsel by the Federal Rules of Civil or Criminal Procedure, or by these Rules, shall be served upon the associated local counsel. Service upon associated local counsel shall be deemed proper and effective service unless excused by the judge. Local counsel shall attend all proceedings related to the case for which counsel is associated.

110-2. Practice in this Court; Dress Code.

(a) Except as otherwise provided by these Rules, only members of this Court's bar or an attorney otherwise authorized by these Rules to practice before this Court may appear for a party, sign stipulations, receive payment or enter satisfaction of judgment, decree or order. Nothing in these Rules shall prohibit any individual appearing in propria persona.

(b) All attorneys appearing in open Court shall be suitably dressed. Minimum acceptable dress for male practitioners shall consist of a dress shirt, necktie, dress slacks, socks and shoes. Minimum acceptable dress for female practitioners shall consist of a dress, slacks, or skirt and blouse and shoes. The Court may refuse to hear attorneys whose appearance does not conform to this Rule.

110-3. Standards of Professional Conduct.

Every member of this Court's bar and any attorney permitted to practice in this Court under Local Rule 110-1 shall be governed by and shall observe the Model Rules of Professional Conduct of the American Bar Association as adopted in 1983 and as thereafter amended or judicially construed, and this Court's "Standards of Professional Conduct," page one, supra.

110-4. Communications to the Court from Counsel.

The Court will not receive letters or other communications from counsel which do not indicate on their face that copies have been sent to opposing counsel. Ex parte

applications for orders, either by mail, by telephone, or in person, will not be granted unless it is indicated that counsel has made reasonable attempts to notify the adverse party. (See Local Rule 220-11, as well.)

110-5. Discipline. Disciplinary matters shall be conducted in accordance with the Disciplinary Rules of this Court, attached hereto as Appendix A.

110-6. Sanctions for Unauthorized Practice.

(a) Prohibition of Unauthorized Practice. A person shall neither exercise the privileges of a member of this Court's bar nor otherwise represent entitlement to exercise those privileges if a person:

(1) is not admitted to this Court's bar; or

(2) has not obtained leave of Court to appear in a proceeding; or

(3) is disbarred or suspended from practice before this Court.

(b) Sanctions. A person who violates subsection (a) of this Rule may be held in contempt of Court and appropriately sanctioned.

110-7. Appearances, Withdrawal, and Substitution of Counsel

(a) Appearances. Unless the Court orders otherwise, a party who has appeared through counsel in a proceeding may not thereafter appear or act in his or her own behalf in the proceeding unless the Court first enters an order of substitution after notice to the party's attorney and to all other parties. The Court may in its discretion hear a

party in open Court notwithstanding the fact that the party has appeared or is represented by an attorney.

(b) Persons Appearing Without An Attorney (In Propria Persona). Any person representing himself or herself without an attorney must appear personally for such purpose and may not delegate that duty to any other person, including a spouse. Any person so representing himself or herself is bound by these Rules of Court, and by the Federal Rules of Civil and Criminal Procedure. Failure to comply may be ground for dismissal or judgment by default.

(c) Substitutions. When counsel for any party ceases to act for the party, the party shall appear personally or appoint another attorney either: (1) by a written substitution of attorney signed by the party, the attorney ceasing to act, and the newly-appointed attorney; or (2) by a written designation filed with the Clerk and served upon the attorney ceasing to act unless counsel of record is deceased, in which event the designation of new counsel shall so state. Until the Court approves a substitution, the authority and responsibility of counsel of record shall continue for other purposes.

(d) Withdrawal from Case. An attorney may withdraw from a civil or criminal case only by order of Court for good cause shown, and after serving notice upon his or her client and opposing counsel.

Rule 120

COURT LIBRARY

120-1. Operation and Use.

The Chief Judge's chambers library is primarily for the use of judges and Court personnel. Attorneys and pro se litigants may use the library, in accordance with such Rules and regulations as may be adopted by the Court. No books or other research materials may be removed from the law library.

Rule 130

FORMAT OF PLEADINGS, PAPERS AND AMENDMENTS; FILING OF PAPERS

130-1. Applicability of Rule and Effect of Noncompliance.

These Rules apply in all proceedings. All pleadings presented at the Clerk's office shall be accepted for filing; however, noncompliance with these Rules may subject a party to sanctions.

130-2. Form and Copy.

(a) General Requirement. All papers presented for filing should be typewritten or similarly prepared in standard 10-pitch pica or equivalent upon unruled, opaque, unglazed white paper of standard quality not less than sixteen pound weight, 8 1/2 x 11 inches in size. All papers shall be filed without backs, shall be typed in heavily inked black ribbon or printed in black, and shall be neat, clean, legible and free of interlineations. The space at the top right-hand corner of the first page of all papers shall be left blank for the Clerk's use.

Unless otherwise required by this Rule, each page shall have a margin of not less than 1.5 inches on the top, one inch on the bottom, .5 inches on the right hand margin, and 1.25 inches on the left hand side of the page. The lines on each page shall be double spaced with the exception of the identification of counsel, the title of the case, footnotes, quotations, descriptions of real property, and exhibits, all of which may be single spaced. All pages shall be numbered consecutively at the bottom and firmly bound at the upper left hand corner.

Exhibits may be appended to pages of the size specified in this subsection. When prepared by a machine copying process, exhibits shall equal typewritten material in legibility and permanency of image. If two (2) or more papers are filed together, only the first page of the first paper shall follow the requirements of subsections (b) and (c), of this Rule.

This Rule shall not apply to forms furnished by the Court.

(b) Counsel shall supply the Court with an original and two copies of all papers filed.

(c) Counsel Identification. The name, address and telephone number of counsel (or, if in propria persona, of the party), and the specific identification of each party represented by name and interest in the litigation (i.e., plaintiff, defendant, etc.) shall appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multi-party proceedings reference may be made to the signature page for the complete list of parties represented.

(d) Caption and Title.

(1) The title of the Court shall be centered on the first page of all papers at least 1.5 inches from the top of the page.

(2) The title of the proceeding shall appear on the first page of all papers below the title of the Court and to the left of the center of the page. In a complaint, the title of the proceeding shall contain the names of all parties. In all papers other than a complaint the title of the proceeding may be appropriately abbreviated.

(3) The file number of the proceeding; a designation of the proceeding; i.e, as civil, criminal, bankruptcy, etc.; the category of the proceeding as provided

in subsection (d) of this Rule, and a title describing the paper(s) presented for filing shall appear on the first page of all papers below the title of the Court and to right of the title of the proceeding.

(e) Designation of Category of Proceeding. Every paper initiating a civil proceeding shall be accompanied by a completed civil cover sheet in a form as may be required by the Clerk.

(f) Demand for Jury Trial. When a demand for a jury trial is endorsed upon a pleading as provided for in Federal Rule of Civil Procedure 38(b), there shall appear immediately below the designation of the nature of the pleading the words "DEMAND FOR JURY TRIAL" or their equivalent. Nothing in this Rule precludes the making of a jury trial demand by a separate document.

(g) Application for Temporary Restraining Order or Preliminary Injunction. An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint.

(h) Class Actions. In any action sought to be maintained as a class action, the complaint, and any counterclaim or cross-claim, shall bear, below the title of the pleading, the legend "Class Action."

(i) Jurisdiction. Each complaint, petition, counterclaim and cross-claim shall state in a separate paragraph entitled "Jurisdiction" the statutory or other basis for federal jurisdiction and the facts supporting jurisdiction.

If a party alleges diversity jurisdiction under 28 U.S.C. §1332, the party shall indicate: (1) the amount in controversy; and (2) the citizenship of all parties for purposes of §1332; and (3) if a party is a corporation, the corporation's citizenship and principal place of business for purposes of §1332(c).

(j) Three-Judge Court. If a party contends that a hearing before a three-judge Court is required, the party shall type the words "Three-Judge Court" below the docket number on the first page of the pleading making the allegation. The Clerk shall then notify the Judge of the filing. In addition to the original filed, three copies of all papers, including briefs, shall be filed with the Clerk.

(k) Certification of Service. Certification or acknowledgment of service on all parties must be attached to and shown on each pleading and paper filed with the Court, at the time it is filed.

130-3. Amended Pleadings.

Any party filing or moving to file an amended pleading shall reproduce and attach to its motion the entire pleading as amended and may not incorporate any part of a prior pleading by reference except with leave of Court.

130-4. Stipulations.

A stipulation requiring the Court's approval shall contain the words "IT IS SO ORDERED", and a designated signature line for the Judge. The Judge's signature line must appear on the same page as the signature of at least one of the attorneys entering into the stipulation.

130-5. Citation Form.

All citations shall be in a generally recognized form, preferably as found in A Uniform System of Citation (15th ed.), enabling both the Court and opposing counsel to locate the cited work. Parties shall provide the Court and opposing counsel a copy of

any case or other authority cited or relied upon and which is unavailable in this Court's library.

130-6. Filing Facsimile Copies.

Facsimile copies from attorneys whose main office is off-island may be accepted for filing provided the original thereof is mailed on the date of the facsimile transmission. The original shall be accompanied by a cover letter referring to the facsimile copy and its date of transmission. A facsimile copy that is not an exact duplicate of the original is subject to being stricken on motion by the opposing party or upon an order of the Court sua sponte. Sanctions may be imposed for filing an original which differs from the facsimile copy.

After a period of thirty days from the date of receipt of the original, which shall bear the same filing date as the facsimile copy, the Clerk is authorized to remove from the Court's file and discard the facsimile copy.

Rule 140

CLERK OF DISTRICT Court

HOURS - DISPOSITION OF EXHIBITS AND DEPOSITIONS - TAXATION OF COSTS

140-1. Location and Hours.

The Office of the Clerk is located on the Second Floor of the Horiguchi Building, Beach Road, Garapan, Saipan. The mailing address is Post Office Box 687, Saipan, MP 96950. The regular hours shall be from 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 4:30 p.m. each day except Saturdays, Sundays, legal holidays and other days or times ordered by the Court. Nothing in this Rule precludes the filing of papers as provided in Federal Rule of Civil Procedure 77.

140-2. Disposition of Exhibits and Depositions.

(a) Delivery to Person Entitled. In all cases in which final judgment has been entered and time has expired for filing a motion for new trial, a motion for rehearing, or a notice of appeal, upon ten (10) days written notice to all parties, any party or person may without Court order withdraw any exhibit or deposition which the party or person originally produced unless, within ten (10) days after the written notice required by this subsection, another party or person files a competing notice of claim. The Court shall determine the person entitled and order delivery accordingly. For good cause, the Court may allow withdrawal or determine competing claims in advance of the time specified in

subsection (b) of this Rule.

(b) Unclaimed Exhibits. If exhibits and depositions are not withdrawn within forty (40) days after the time when notice may first be given under subdivision (a) of this Rule, the Clerk may destroy them or make other disposition as the Clerk sees fit.

140-3. Taxation of Costs.

(a) Application to the Clerk. Within ten (10) days after the entry of a judgment allowing costs the prevailing party shall serve on the attorney for the adverse party and file with the Clerk an application for the taxation of costs. The application shall be on a Bill of Costs form prescribed by the Court, which shall be furnished by the Clerk. If an application for costs is received which is not on the appropriate form, the Clerk shall file the application as presented and promptly notify the party seeking costs that it was filed on the wrong form. The Clerk shall accompany such notification with the proper form and instruct the party to file the application on the proper form within ten (10) days. The application shall contain an itemized schedule of costs in a sworn statement signed by the attorney for the applicant that the schedule is correct and that the costs were necessarily incurred. The application shall be heard by the Clerk not less than five (5) nor more than ten (10) days after it is served, and notice of the time of hearing shall be endorsed upon it.

A failure to comply with this Rule waives the right to recover all costs, other than the Clerk's costs, which may be inserted in the judgment without application. At the option of the Clerk the hearing may be held by telephone conference call.

(b) Depositions. In taxing costs of depositions, the Clerk shall allow the fees of the Court reporter at the rates specified by the Judicial Conference of the United States, or the actual fees paid by the prevailing party, whichever is less, for the originals of any depositions which were taken in the case at the instance of the prevailing party and filed with the Court, unless it appears from the general content of the deposition that it was not reasonably necessary for the development of the case in light of the situation existing at the time of its taking.

In any case in which the Judge has entered a special protective order, the Clerk, using the rate specified in the preceding paragraph, shall tax costs for the original of any deposition taken by the prevailing party which was taken by reason of entry of such protective order.

The Clerk or the Court may refuse to tax the cost of transcribing direct examination or cross-examination which is unreasonably prolonged or irrelevant. By including deposition costs in the application, counsel for the prevailing party will be deemed to have certified that the deposition or depositions involved were reasonably necessary, when taken, to the development of the case. In the absence of an objection from the adverse party, the Clerk may presume that any depositions for which costs are claimed were reasonably necessary for the development of the case and do not contain unreasonably prolonged or irrelevant examination.

(c) Transcripts. In taxing costs of transcripts the Clerk shall allow fees of the Court reporter at the rate specified by the Judicial Conference of the United States, or the actual fees paid by the prevailing party for the original or any portion of the transcript furnished

to the Court unless it appears that the transcript was not necessarily obtained for use in the case. In the absence of an objection from the adverse party, the Clerk may presume that any portion of the transcript for which costs are claimed was reasonably necessary for the development of the case.

(d) Fees and Disbursements for Witnesses. A party entitled to recover costs shall be entitled to recover the statutory fees and allowances for necessary witnesses as provided in 28 U.S.C. §1821 or its successor. Such statutory fees and allowances will be taxable costs for each day that a witness actually testifies at trial. The party seeking costs may show by affidavit, the burden being upon him or her to do so, that the presence of witnesses who (1) did not actually testify or (2) were present at trial for a longer time than the days of actual testimony, was necessary.

In the case of expert witnesses, the party seeking costs will be entitled to recover only the statutory fees and mileage for such witnesses unless the Judge orders otherwise prior to the time costs are sought.

Mileage will be allowed for witnesses at the statutory rate for all necessary travel within the district. Mileage will be allowed for out-of-state witnesses from the point of entering the district to the place of trial.

(e) Fees for Exemplification and Copies of Papers Necessarily Obtained for Use in the Case. Reasonable fees for exemplification and copies of exhibit evidence such as charts, drawings, maps, photographs, movies, and models, etc., which were reasonably necessary to the presentation of the prevailing party's case will be allowed as costs. In taxing the costs the Clerk will presume that exhibit evidence used at the trial was

reasonably necessary to the presentation of the case, and that exhibit evidence not so used was not reasonably necessary to the presentation of the case.

(f) Bond Premiums. The party entitled to recover costs shall ordinarily be allowed premiums paid on undertakings, bonds or security stipulations, where the same have been furnished by reason of express requirement of the law, or an order of the Court or a Judge thereof, where the same are reasonably required to enable the party to secure some right accorded the party in the action or proceedings. In taxing costs the Clerk will presume that the premiums for all bonds which are on file and of record in the case are allowable as costs.

(g) Other Costs. Items of costs not specifically mentioned in this Rule shall be taxed by the Clerk in accordance with the laws of the United States.

(h) Objections. Specific objections, supported by affidavits or other written evidence, may be made to any item of costs. The Clerk shall thereupon tax the costs, and if there is no appeal, shall insert the amount of costs taxed in the blank left in the judgment, and also in the docket.

(i) Review. A dissatisfied party may appeal upon written motion served within five (5) days of the Clerk's decision as provided in Federal Rule of Civil Procedure 54(d). The motion shall specify all objections to the Clerk's decision and the reasons for the objections. Appeals shall be heard by the Court upon the same papers and evidence submitted to the Clerk.

Rule 150

PRETRIAL AND TRIAL PUBLICITY

150-1. Broadcasting, Television, Recording or Photographing Judicial and Grand Jury Proceedings.

It is prohibited to take photographs, video recordings, or to operate tape recorders, or radio or television broadcasting equipment inside the Courtroom, the grand jury room, and the 1st and 2nd floors of the Horiguchi Building during the progress of or in connection with any proceeding, including proceedings before a United States Grand Jury, whether or not actually in session.

150-2. Publicity.

Court personnel, including but not limited to marshals, clerks and deputies, law clerks, messengers, interpreters and Court reporters, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the Court, without specific authorization by the Court.

CHAPTER II - CIVIL RULES

Rule 200

PROCESS - ISSUANCE AND SERVICE

200-1. Service of Process.

(a) Service of process shall be in accordance with Rule 4 of the Federal Rules of Civil Procedure.

(b) The Director of the Department of Public Safety of the Commonwealth of the Northern Mariana Islands and his or her deputies are authorized to serve civil process pursuant to Federal Rule of Civil Procedure 4(c).

Rule 210

DISMISSAL FOR LACK OF PROSECUTION

If a proceeding has been pending for more than six (6) months without any action taken by the parties during that period, upon notice to the parties the Court may dismiss the proceeding for lack of prosecution. The Court may order dismissal at any calendar call. The dismissal shall be without prejudice.

Rule 220

MOTION PRACTICE

EXTENDING, INCREASING, OR SHORTENING TIME - SUBMISSION OF ORDERS

220-1. Motion Day.

Motion day shall be Friday of each week. If a Friday is a holiday the motion shall be calendared for the following Friday. Parties may notice matters for hearing at 9:00 a.m. Unless the Judge otherwise orders, the Clerk shall calendar motions in accordance with this Rule.

Oral argument is at the discretion of the Court but will normally be heard unless the Court enters an order indicating otherwise.

220-2. Notice and Supporting Papers.

Except as otherwise ordered or permitted by the Judge, and except for application for a Temporary Restraining Order, all motions, except those made during a trial or hearing, shall be noticed in writing on the motion calendar for hearing not less than twenty-eight (28) days after filing. Each notice of motion shall be accompanied, where appropriate, by affidavits or declarations under penalty of perjury sufficient to support any material factual contentions, and by an appropriate legal memorandum or brief, including, where appropriate, citations to these Rules.

220-3. Hearing Date; Opposition and Reply.

Unless the party moves for a different hearing date, a motion will be heard on the fourth Friday after it is filed. (If a motion is filed on a Friday that day will not be included in the calculation of the four Fridays). Any opposition to the motion shall be filed and served not less than fourteen (14) days preceding the noticed or continued date of hearing. The opposition shall consist of a legal memorandum or brief and, when appropriate, affidavits or declarations under penalty of perjury. A party not opposing a motion shall file a statement of no opposition within the time provided above. Failure to file such a statement may be deemed an admission that the motion is meritorious.

The movant shall serve and file any reply to the opposition not less than seven (7) days preceding the noticed or continued hearing date.

No further filings or replies shall be accepted without leave having first been obtained from the Court.

220-4. Briefs and Memoranda: General Requirements and Sanctions.

Briefs or memoranda supporting or opposing a motion shall not exceed twenty-five (25) pages in length. Briefs or memoranda exceeding fifteen (15) pages shall have a table of contents and a table of authorities cited.

Failure to file briefs or memoranda within the time deadlines prescribed by Rules 220-2 and 220-3 may subject a party to a motion for summary disposition. Movant's failure to serve and to file a supporting brief or memorandum may be deemed an admission that the motion is unmeritorious. The opponent's failure to serve and to file

an opposing brief or memorandum may be deemed an admission that the motion is meritorious.

220-5. Filing Two Extra Copies.

The original and two copies of each motion, memorandum, and affidavit provided for by these Rules shall be filed with the Clerk.

220-6. Related and Counter-Motions.

When serving and filing an opposition as provided by Rule 220-3, the opponent of a motion may also serve and file any motion related to the subject matter of the original motion. The related motion or counter-motion may be noticed for hearing on the same date as the original motion.

220-7. Affidavits and Declarations.

Factual contentions supporting or opposing a motion shall be supported by affidavits or declarations. Affidavits and declarations shall contain only facts, shall conform to the requirements of Federal Rule of Civil Procedure 56(e), and shall avoid conclusions and argument. Any statement made upon information or belief shall specify the basis therefor. The Court may partially or completely strike affidavits and declarations which do not comply with this Rule.

220-8. Summary Judgment Motions: Statement of Undisputed Material Facts.

When moving for summary judgment under Federal Rule of Civil Procedure 56, the movant shall annex to the notice of motion a separate, short and concise written statement of the material facts which movant contends are undisputed.

The opponent of a summary judgment motion shall serve and file a separate, short and concise written statement of the material facts which opponent contends are undisputed.

The movant's statement of undisputed material facts may be deemed admitted unless controverted by the opponent's statement required by this Rule.

220-9. Motion for Reconsideration.

A motion for reconsideration of the decision of any motion may be made only on the grounds of (a) a material difference in fact or law from that presented to the Court before such decision, which in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a showing of a manifest failure to consider material facts presented to the Court before such decision. No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

220-10. Extending, Increasing, or Shortening Time.

(a) Stipulations Extending Time. Every proposed stipulation extending time shall

indicate on the face sheet the sequential number of the extension; e.g., "Second Stipulation Extending Time". Each request for an extension of time shall be accompanied by an affidavit, setting forth the reasons for the extension, and a signature block for the Judge preceded by the language "It is so Ordered." The Clerk shall submit the proposed extension and affidavit to the Judge for disposition.

(b) Applications for Increased Time. All applications for increases of time made by motion shall state (i) the total increase of time previously obtained by the parties and (ii) the reason for the particular increase requested.

(c) Ex Parte Applications. Upon satisfactory showing why the increase of time could not be obtained by stipulation or duly noticed motion, the Court may grant ex parte an emergency increase sufficient to enable the party to apply for a further increase by stipulation or duly noticed motion. Any order granting an ex parte motion under this Rule shall be made subject to objections being filed by opposing counsel within the time provided by the Court.

(d) Extension to Respond to Third Party Claims. Whenever a defendant causes a summons and complaint to be served pursuant to Federal Rule of Civil Procedure 14 upon a person not a party to the action, no increase of time shall be granted to the person except by stipulation of all parties or upon motion duly noticed.

(e) Order Shortening Time. Applications for orders shortening the time permitted or required by the Federal Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by a certificate stating the reasons therefor. When the application is made ex parte, the certificate shall state the reason why a

stipulation could not be obtained or notice could not be given.

220-11. Emergency and Ex Parte Motions.

All ex parte motions shall comply with the following requirements:

1. Before filing the motion, the movant shall make every practicable effort to notify the Clerk and opposing counsel, and to serve the motion at the earliest possible time.

2. Any motion under this Rule shall have a cover page bearing the legend "Emergency (or Ex-Parte) Motion Under Rule 220-11" and the caption of the case.

A certificate of counsel for the movant, entitled "Rule 220-11", shall follow the cover page and shall contain:

(i) The telephone numbers and office addresses of the parties;

(ii) Facts showing the existence and nature of the claimed emergency or reason for ex-parte application; and

(iii) When and how counsel for the other parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not practicable.

220-12. Failure to Comply With Rules.

The Court need not consider motions, oppositions to motions, or briefs or memoranda that do not comply with these Rules. The Court may impose sanctions for non-compliance in addition to those sanctions otherwise provided in these Rules.

Rule 230

DISCOVERY PROCEEDINGS

230-1. General Requirements.

(a) Lawyers shall make reasonable efforts to conduct all discovery by agreement.

(b) A lawyer shall not use any form of discovery, or the scheduling of discovery as a means of harassing opposing counsel or his or her client.

(c) Requests for production shall not be excessive or designed solely to place a burden on the opposing party.

230-2. Scheduling.

(a) Lawyers shall, when practical, consult with opposing counsel before scheduling hearings and depositions, in a good faith attempt to avoid scheduling conflicts.

(b) When scheduling hearings and depositions, lawyers shall communicate with opposing counsel in an attempt to schedule them at a mutually agreeable time. This practice will avoid unnecessary delays, expense to clients, and undue stress to lawyers and their secretaries in the management of the calendars and practice.

(c) If a request is made to clear time for a hearing or deposition, the lawyer to whom the request is made shall confirm that the time is available or advise of a conflict within a reasonable time (preferably the same business day, but in any event before the end of the following business day).

(d) Conflicts shall be indicated only when they actually exist and the requested time is not available.

230-3. Exceptions.

(a) A lawyer who has attempted to comply with this Rule is justified in setting a hearing or deposition without agreement from opposing counsel if opposing counsel fails or refuses promptly to accept or reject a time offered for hearing or deposition.

(b) If opposing counsel raises an unreasonable number of calendar conflicts, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

(c) If opposing counsel has consistently failed to comply with this guideline, a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

(d) In cases involving extraordinary remedies where time associated with scheduling agreements could cause damage or harm to a client's case, then a lawyer is justified in setting a hearing or deposition without agreement from opposing counsel.

230-4. Minimum Notice for Depositions and Hearings.

(a) Depositions and hearings shall not be set with less than one week notice except by agreement of counsel or when a genuine need or emergency exists.

(b) If opposing counsel makes a reasonable request which does not prejudice the rights of the client, compliance herewith is appropriate without motions, briefs, hearings

orders and other formalities and without attempting to extract unrelated or unreasonable consideration.

230-5. Cancelling Depositions, Hearings, and Other Discovery Matters.

(a) Notice of cancellation of depositions and hearings shall be given to the Court and opposing counsel at the earliest possible time.

230-6. Time Deadlines and Extensions.

(a) Reasonable extensions of time should be granted to opposing counsel where such extension will not have a material, adverse effect on the rights of the client. Traditionally, members of this bar association have readily granted any reasonable request for an extension of time as an accommodation to opposing counsel who, because of a busy trial schedule, personal emergency or heavy work load, needs additional time to prepare a response or comply with a legal requirement. This tradition should continue; provided, however that no lawyer should request an extension of time solely for the purpose of delay or to obtain any unfair advantage. Counsel should make every effort to honor previously scheduled off-island trips of opposing counsel which dates have been established in good faith.

230-7. Interrogatories - Form and Limitation on Number.

(a) Form. The interrogatories shall be so arranged that after each separate question shall appear a blank space reasonably calculated to enable the answering party

to have his or her answer typed in. The answering party shall verify his or her answers to said interrogatories immediately following his or her answer to the last interrogatory so propounded.

(b) Limitation on Number. Prior to the filing of a responsive pleading, no party shall serve on any other party interrogatories which, including subparagraphs, number more than thirty (30), without leave of Court. Subparagraphs of any interrogatory shall relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories prior to the filing of a responsive pleading shall submit to the Court a written memorandum setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

230-8. Answers and Objections to Interrogatories.

(a) Answers to Interrogatories. The party to whom interrogatories are directed shall answer each interrogatory within the space so provided or using additional pages, if necessary, and thereafter shall serve the copy of the same upon the party propounding the interrogatories.

(b) Objections to Interrogatories or Answers.

1. A party objecting to written interrogatories shall set forth each interrogatory objected to followed by his or her objection and the reasons for it.

2. A party objecting to answers shall set forth each answer objected to and the interrogatory to which it relates, followed by his or her objection and the reasons for it.

230-9. Answers and Objections to Requests for Admission.

Responses and objections to requests for admission or answers thereto pursuant to Federal Rule of Civil Procedure 36 shall identify and quote each request for admission in full immediately preceding the statement of any answer or objection to the request for admission.

230-10. Abuse of or Failure to Make Discovery; Sanctions.

(a) Conference Required. The Court will entertain no motion under Federal Rules of Civil Procedure 26 through 37 unless counsel have previously met and conferred concerning all disputed issues. If counsel for the moving party seeks to arrange a conference and counsel for the party against whom the motion is made refuses or fails to meet and confer, the Court may order the payment of reasonable expenses, including attorney's fees, pursuant to Federal Rule of Civil Procedure 37(a)(4) and Local Rule 100-3.

(b) Certificate of Compliance. When filing any motion under Federal Rules of Civil Procedure 26 through 37, counsel for the moving party shall certify compliance with this Rule.

230-11. Depositions: Recorded by Videotape or Audio Tape.

(a) A party may notice depositions utilizing videotape or audio tape or a similar recording method provided that:

(1) the notice clearly indicates that the deposition will be recorded on videotape or by a similar recording method; and

(2) reasonable advance notice is given to all parties.

(b) As soon as is practicable after the deposition, the party who noticed the deposition shall provide to the other party a duplicate copy of the recording.

(c) A party who objects to the notice of deposition utilizing videotape or a similar recording method may file a motion for a protective order under Federal Rule of Civil Procedure 26(c).

230-12. Depositions for Use in Judicial Proceedings.

Applications may be made ex parte for the designation, pursuant to 28 U.S.C. §1782, of a Commissioner to take the deposition of a person within this District for use in a judicial proceeding pending in the Court of a foreign country. If the Court in which the proceeding is pending has appointed a person to take the deposition, that person will be designated, unless there is good cause for refusing such designation.

The Commissioner shall certify and mail the deposition to the foreign Court in accordance with the applicable Federal Rule of Civil Procedure, and file proof of mailing with the Clerk.

230-13. Discovery Materials Not to be Filed.

The following discovery documents and proofs of service thereof shall not be filed with the Clerk until there is a proceeding in which the document or proof of service is in issue:

(a) Transcripts of depositions upon oral examination;

(b) Transcripts of depositions upon written questions;

(c) Interrogatories;

(d) Answers or objections to interrogatories;

(e) Requests for production of documents or to inspect tangible things;

(f) Responses or objections to requests for productions of documents or to inspect tangible things;

(g) Requests for admissions; and,

(h) Responses or objections to requests for admission.

When required in a proceeding, only that part of the document which is in issue shall be filed with the Court. All such discovery documents shall be held by the attorney pending use pursuant to the period of time specified in Local Rule 140-2 or until further order of the Court.

Rule 240

PRETRIAL AND SETTING FOR TRIAL

240-1. Counsel's Duty of Diligence.

Counsel shall diligently take all steps necessary to prepare proceedings for pretrial and trial.

240-2. Status Conference.

At any time after the filing of a proceeding, the Judge may order the holding of a status conference with or without the written request of any party. All parties receiving notice of the status conference shall attend personally or by counsel and shall be prepared to discuss the following subjects:

(a) Service of process on parties not yet served;

(b) Jurisdiction and venue;

(c) Anticipated motions;

(d) Anticipated or remaining discovery, including limitations on discovery;

(e) Further proceedings, including setting dates for discovery cut-off, pretrial and trial, and compliance with Local Rules 240-5, 240-7 and 240-8;

(f) Appropriateness of special procedures such as consolidation of actions for discovery or pretrial, reference to a master or to arbitration or the Judicial Panel on Multidistrict Litigation, or application of the Manual for Complex Litigation;

(g) Modifications of the standard pretrial procedures specified by this Rule on

account of the relative simplicity or complexity of the action or proceeding;

(h) Settlement prospects;

(i) Any other matter which may be conducive to the just, efficient and economical determination of the proceeding, including the definition or limitation of issues;

(j) Setting the discovery cut-off date;

(k) Setting the pretrial conference date;

(l) Setting the settlement conference date; and,

(m) Setting a trial date.

Unless otherwise ordered, Local Rule 220-10 governs continuances of status conferences. Status conferences may be held in any proceeding as herein provided.

240-3. Status Conference Order.

At the conclusion of the status conference, the Judge may enter an order governing further proceedings which the Court deems appropriate, including provisions for discovery cut-off, the initiation of pretrial proceedings, and trial setting. Copies of the order shall be served on all parties who have appeared in the proceeding.

240-4. Pretrial Conference.

One or more pretrial conferences may be held in any proceeding when the Judge so orders (a) by a status conference order or, (b) by any other order issued at the written request of any party or, (c) on the Judge's own motion. If a party files a request, the party shall serve a copy upon all other parties, who shall have ten (10) days from the date

of service within which to respond to the request.

240-5. Pretrial Conference Statements.

(a) Contents of Pretrial Statement. At least seven calendar days prior to the pretrial conference, each party shall serve and file a pretrial statement which follows the form and contains the information specified in this Rule:

(1) Party. The name of the party filing the statement.

(2) Jurisdiction and Venue. The claimed statutory basis of federal jurisdiction and venue, and a statement as to whether any party disputes jurisdiction or venue.

(3) Substance of the Case. A brief description of the substance of the claims and defenses presented, including the elements of each cause of action and all affirmative defenses.

(4) Undisputed Facts. A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(5) Disputed Factual Issues. A plain and concise statement of all disputed factual issues.

(6) Relief Claimed. A detailed statement of the relief claimed, including a particularized itemization of all elements of damages claimed.

(7) Points of Law. A concise statement of each disputed point of law with

respect to liability and relief, with reference to statutes and decisions relied upon. Extended legal argument is not to be included in the pretrial statement.

(8) Previous Motions. A list of all previous motions made in the proceeding and their disposition.

(9) Witnesses to be Called. A list of all witnesses likely to be called at trial, except for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony expected to be given.

(10) Exhibits, Schedules and Summaries. A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each describing its substance or purpose and the identity of the sponsoring witness.

(11) Further Discovery or Motions. A statement of all remaining discovery or motions.

(12) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(13) Amendments, Dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims or defenses.

(14) Settlement Discussion. A statement summarizing the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(15) Submission on Agreed Statement. A statement whether the material facts

are undisputed such that it is feasible to submit the case without trial upon an agreed statement of facts.

(16) Bifurcation, Separate Trial of Issues. A statement whether bifurcation or a separate trial of specific issues is feasible and desired.

(17) Reference to Master. A statement whether reference of all or a part of the proceeding to a master is feasible and agreeable.

(18) Appointment and Limitation of Experts. A statement whether it is feasible and desirable for the Judge to appoint an impartial expert witness or to limit the number of expert witnesses.

(19) Trial. A statement of the scheduled or requested trial date and, if trial is to be to a jury, that a timely request for a jury is on file in the proceeding.

(20) Estimate of Trial Time. An estimate of the number of Court days anticipated for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by means including, but not limited to, stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(21) Claims of Privilege or Work Product. A statement indicating whether any of the matters otherwise required to be stated by this Rule is covered by the work product or other privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.

(22) Miscellaneous. Any other subjects relevant to the trial of the proceeding,

or material to its just, efficient and economical determination.

(b) Time Deadlines for Filing Pretrial Statements. Each party shall serve and file the pretrial statement required by subsection (a) of this Rule:

(1) At the time specified by a status conference order under Local Rule 240-4; or

(2) At the time otherwise ordered by the Judge.

240-6. Pretrial Conference Agenda and Pretrial Order.

(a) The pre-trial conference shall be held on the date and at the time scheduled. The agenda for the pretrial conference shall consist of matters covered by Federal Rule of Civil Procedure 16, Local Rule 240-5, and any other matter relevant to the trial of the proceeding. Each party shall be represented at the pretrial conference by the lead trial counsel having authority with respect to all matters on the agenda, including settlement of the proceedings.

(b) Counsel shall jointly prepare the Pretrial Order to be filed with this Court no later than ten (10) calendar days preceding the conference date. In the event counsel are unable to agree to the terms of the Pretrial Order, they shall each prepare proposed Pretrial Orders for submission to the Court on the date set forth above.

(c) The Judge may make such pretrial order or orders at or following the pretrial conference as may be appropriate. The order shall control the subsequent course of the proceeding as provided in Federal Rule of Civil Procedure 16.

240-7. Pretrial Preparation.

(a) Unless the Judge otherwise orders, not less than fifteen (15) calendar days before the first scheduled trial date each party shall:

(1) Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and the supporting arguments and authorities;

(2) In jury cases, serve and file proposed voir dire questions, jury instructions and forms of verdict;

(3) Serve and file statements designating excerpts from depositions (specifying the witness and page and line references), from interrogatory answers and from responses to requests for admission to be offered at the trial other than for impeachment or rebuttal;

(4) Exchange copies of all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the trial other than for impeachment or rebuttal. Each proposed exhibit shall be premarked for identification in a manner clearly distinguishing plaintiff's exhibits from defendant's exhibits. Upon request, a party shall make the original or the underlying documents of any exhibit available for inspection and copying.

(b) In non-jury cases, the parties may serve and file proposed findings of fact and conclusions of law in addition to the material required by subsection (a) of this Rule.

240-8. Objections to Proposed Testimony and Exhibits.

Promptly after receiving statements and exhibits pursuant to Local Rule 240-7(a)(4), any party proposing to object to the admission in evidence of any proposed testimony or exhibit shall advise the opposing party of the objection. The parties shall confer in advance of trial with respect to any objections and attempt to resolve them. They shall advise the Court of any unresolved objections and make reasonable efforts to present the matters to the Court in advance of trial for ruling.

Rule 250

TRIAL - JURORS AND JURIES

250-1. Six-Person Juries.

In all civil proceedings in which a party is entitled to a jury trial, the jury shall consist of six (6) members and as many alternates as the Court may determine.

Rule 260

ORDERS - FINDINGS OF FACT - CONCLUSIONS OF LAW - JUDGMENTS

260-1. Orders, Findings, and Judgments.

The Clerk is authorized to grant, sign, and enter the following orders without further direction by the Court. Any orders so entered may be suspended, altered, or rescinded by the Court for good cause:

(1) Orders specifically appointing persons of suitable discretion and eighteen (18) years of age, or over, to serve the summons and complaint;

(2) Orders on consent satisfying a judgment or an order for the payment of money, annulling bonds, or exonerating sureties;

(3) Any other of the orders referred to in Federal Rule of Civil Procedure 77(c), which do not require allowance or order of the Court.

260-2. Entry of Judgments and Orders.

(a) In all cases the notations of judgments and orders in the civil docket by the Clerk will be made at the earliest practicable time. The notations of judgment will not be delayed pending taxation of costs, but there may be inserted in the judgment a clause reserving jurisdiction to tax and apportion the costs by subsequent order.

(b) Orders under subdivision (a) of this Rule will be noted in the civil docket immediately after the Clerk has signed them. The Clerk may require any party obtaining

a judgment or order which does not require approval as to form by the judge to supply the Clerk with a draft thereof.

(c) No judgment or order, except orders granted by the Clerk under Local Rule 260-1 and judgments which the Clerk is authorized by the Federal Rules of Civil Procedure to enter without direction of the Court, will be noted in the civil docket until the Clerk has received from the Court a specific direction to enter it. Unless the Court's direction is given to the Clerk in open Court and noted in the minutes, it should be evidenced by the Judge's signature or initials on the judgment or order.

(d) Every order and judgment shall be filed in the Clerk's office, and if the Clerk so requests, a copy shall also be delivered to the Clerk for insertion in the civil order book.

(e) All orders for the deposit of registry account funds in interest-bearing accounts shall contain the following provision:

> "IT IS FURTHER ORDERED that counsel presenting this order shall serve a copy thereof on the Clerk of the Court or the chief deputy personally at the time the money is deposited with the Clerk's office. Absent the aforesaid service, the Clerk is hereby relieved of any personal liability relative to compliance with this order."

260-3. Settlement of Judgments and Orders by the Court.

Unless otherwise ordered, within seven (7) days after the announcement of the decision of the Court awarding any judgment or order which requires settlement and approval by the Judge, the prevailing party shall prepare a draft of the order or judgment

embodying the Court's decision and serve a copy thereof upon each party who has appeared in the action and mail or deliver a copy to the Clerk. Any party thus receiving the proposed draft of judgment or order shall within seven (7) days thereafter serve upon the prevailing party and mail or deliver to the Clerk a statement of objections, if any, to the proposed draft and the reasons therefor and a substitute for the draft transmitted. At the expiration of fourteen (14) days after the announcement of the decision, the Clerk shall submit to the Judge all drafts and accompanying papers which the Clerk has received.

260-4. Settlement of Findings of Fact and Conclusions of Law.

Within fourteen (14) days after the announcement of the Court's decision awarding judgment in any action tried without a jury, including actions in which a jury acted only in an advisory capacity under Federal Rule of Civil Procedure 39(c), the prevailing party shall, unless the Court otherwise orders, prepare a draft of findings of fact and conclusions of law required by Federal Rule of Civil Procedure 52(a). The prevailing party shall serve a copy thereof upon each party who has appeared in the action and mail or deliver a copy to the Clerk. Any party thus receiving the proposed draft of findings of fact and conclusions of law shall within seven (7) days thereafter serve upon the prevailing party and mail or deliver to the Clerk a statement of objections, if any, to the proposed draft, the reasons therefor and a draft of findings and conclusions which the objecting party proposes to substitute for the draft transmitted. At the expiration of twenty-one (21) days after the announcement of the decision, the Clerk shall submit to the Judge all drafts and accompanying papers which the Clerk has received.

Rule 270

ACTIONS INVOLVING MINORS OR INCOMPETENTS

270-1. Guardians Ad Litem.

(a) Appointment Procedure. Guardians Ad Litem may be appointed ex parte, at any time upon the presentation to the Judge of a sworn petition showing good cause for the appointment. An appointment order shall be filed with the petition.

(b) Person Ineligible to be a Guardian Ad Litem. No person shall be appointed guardian ad litem if the person has an interest adverse to that of the minor or incompetent, or if the person is connected in business with an adverse party or with the attorney of the adverse party; or if the person has insufficient pecuniary ability to answer to the minor or incompetent for any injury which the minor or incompetent may sustain as a result of the person's negligence or misconduct.

(c) Bond of Guardian Ad Litem. Ordinarily, no bond shall be necessary from a guardian ad litem; provided, that no guardian shall receive any money or other property of the minor or incompetent until the guardian has filed with the Clerk a bond in an amount fixed by the Judge, conditioned for the faithful performance of the guardian's duties. If the guardian does not desire to receive any money or property of the minor or incompetent, the money or property shall be paid or delivered to the Clerk or to a person directed by the Court. Under these circumstance, the payment or delivery of the money or property to the Clerk shall have the same effect as if the money or property had been paid or delivered to the guardian.

270-2. Order of Judgment Required.

No action by or on behalf of a minor or incompetent shall be dismissed, discontinued, or terminated without the Court's approval. When required by Commonwealth law, Court approval shall also be obtained from the appropriate Commonwealth Court having jurisdiction over the matter for any settlement or other disposition of litigation involving a minor or incompetent.

Rule 280

RECEIVERS

280-1. Appointment of Receivers.

Application for the appointment of a receiver may be made after the complaint has been filed and the summons issued.

(a) Emergency Receivers. An emergency receiver may be appointed without notice to the party sought to be subjected to a receivership in accordance with the requirements and limitations of the Federal Rules of Civil Procedure, Rule 66. As soon thereafter as may be practicable, the party who obtained the emergency receivership shall seek appointment of a permanent receiver.

(b) Permanent Receivers. A permanent receiver may be appointed after notice and hearing upon an order to show cause. This order shall be issued by a Judge upon appointment of a temporary receiver or upon application of the plaintiff and shall be served on all parties. The defendant shall provide to the temporary receiver (or, if there is no temporary receiver, the plaintiff) within five (5) days a list of defendant's creditors and their addresses. Not less than five (5) days before the hearing, the temporary receiver (or, if none, the plaintiff) shall mail to the creditors listed a notice of hearing, and file proof of mailing.

(c) Bond. A Judge may require any receiver appointed to furnish a bond in an amount which the Judge deems reasonable.

280-2. Employment of Experts.

The receiver shall not employ an attorney, accountant or investigator without an order of a Judge. The compensation of all such employees shall be fixed by the Judge.

280-3. Application for Receiver's Fees.

An application for receiver's fees shall be made by a petition setting forth in reasonable detail the nature of the services rendered. Proceedings on fee applications shall be heard in open Court, unless all parties waive their appearance in writing.

280-4. Deposit of Funds.

A receiver shall deposit all funds received in a depository designated by the Judge, entitling the account with the name and number of the action. At the end of each month, the receiver shall deliver to the Clerk a statement of account and the cancelled checks.

280-5. Reports.

Within thirty (30) days of appointment, a permanent receiver shall file with the Court a verified report and petition for instructions. The petition shall be heard on ten (10) days notice to all known creditors and parties. The report shall contain a summary of the operations of the receiver, an inventory of the assets and their appraised value, a schedule of all receipts and disbursements, and a list of all creditors, their addresses and the amount of their claims. The petition shall contain the receiver's recommendation as to the continuance of the receivership and reason for the recommendations. At the

hearing, the Judge shall determine whether the receivership shall be continued and, if so, the Judge shall fix the time for future reports of the receiver.

280-6. Notice of Hearings.

The receiver shall give all interested parties at least ten (10) days notice of the time and place of hearings concerning:

(a) Petitions for the payment of dividends to creditors;

(b) Petitions for confirmation of sales of property;

(c) Reports of the receiver;

(d) Applications for fees of the receiver or of any attorney, accountant or investigator, with a statement of the services performed and the fee requested; and,

(e) Applications for discharge of the receiver.

Rule 290

BONDS AND SURETIES

290-1. Security for Costs.

(a) Nonresidents. Every nonresident filing a complaint shall within ten (10) days after demand of an adverse party file with the complaint a bond for costs in the sum of $500 unless for good cause, on motion, which may be made ex parte, the Court dispenses with the bond or fixes a different amount. The bond shall have sufficient surety and shall be conditioned to secure the payment of all costs of the action which the party ultimately may be required to pay to any other party. After the bond is filed, any opposing party may raise objections to its form or to the sufficiency of the surety for determination by the Clerk. If the bond is found to be insufficient, the Court may order the filing of a sufficient bond within a specified time. If the order is not complied with, the Clerk shall enter dismissal of the action as in a case of dismissal for want of prosecution.

(b) Other Parties. On its own motion or a party's motion, the Court may order any party to file a bond for costs in an amount and under conditions designated by the Court.

290-2. Qualifications of Surety.

Every bond for costs under these Rules must have as surety either (1) a cash deposit equal to the amount of the bond or (2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under the Act of

August 13, 1984 (28 Stat. 279), as amended, 6 U.S.C. §§1-13, or (3) two individual residents of the Northern Mariana Islands, each of whom owns real or personal property within the Northern Mariana Islands sufficient in value above encumbrances to justify the full amount of the suretyship, or (4) any insurance, surety or bonding company licensed to do business in the Northern Mariana Islands.

290-3. Suits by Indigent Persons.

At the time application is made, under Acts of Congress providing for suits by indigent persons for leave to commence any civil proceeding without being required to pre-pay fees and costs or give security for them, the applicant shall file a written consent that the recovery of the amount, if any in the proceeding, as the Court may direct, shall be paid to the Clerk, who may pay therefrom all unpaid fees and costs taxed against the plaintiff and, to plaintiff's attorney, the amount which the Court allows or approves as compensation for the attorney's services.

CHAPTER III - CRIMINAL RULES

Rule 300

BAIL

300-1. Appearance Bond.

A person required to give bail, pursuant to Federal Rule of Criminal Procedure 46 and 18 U.S.C. §3146 and 3149, shall execute the type of bond or promise to appear, specifying the conditions thereof, required by the judicial officer. The bond or promise to appear shall substantially conform in both form and content to the appropriate form approved by the Court.

300-2. Posting Security.

When the release of a defendant is conditioned upon the deposit of cash or other security with the Court, the deposit shall be made with the Clerk.

300-3. Type of Bonds in Criminal Cases.

A person charged with a criminal offense in which a secured bond has been required may, in the Court's discretion, furnish in lieu of cash a commercial surety bond or a secured interest in real estate which shall be referred to as a "property bond."

(a) Surety Bonds. Surety bonds for the appearance of a person charged with a criminal offense shall require the execution of a bail bond or equivalent security as provided in Local Rule 290-2.

(b) Property Bonds. For real property to qualify as adequate security:

(1) The real property must have an entity value, after deducting the outstanding balance of any existing lien or encumbrance, of an amount not less than the principal amount of the bail set.

(2) The title owner of the property shall furnish a mortgage on the property in favor of the United States of America and shall deliver to the Court a mortgage note in pledge as security for the bond.

(3) The value of the property must be established by evidence satisfactory to the Court.

Rule 310

PRETRIAL CONFERENCE

310-1. Pretrial Agenda.

On request of any party or on the Judge's motion, the Judge may hold one or more pretrial conferences in any criminal proceeding. In the Judge's discretion, the conference may be informal or formal. The agenda at the pretrial conference shall consist of any of the following items, so far as applicable:

(a) Production of statements or reports of witnesses under the Jencks Act, 18 U.S.C. §3500;

(b) Production of grand jury testimony of witnesses intended to be called at the trial;

(c) Production of evidence favorable to the defendant on the issue of guilt or punishment as required by Brady v. Maryland, 373 U.S. 83 (1963) and related authorities;

(d) Stipulation of facts which may be deemed proved at the trial without further proof by either party;

(e) Appointment by the Court of interpreters, under Federal Rule of Criminal Procedure 28;

(f) Dismissal of certain counts and elimination from the case of certain issues, e.g., insanity, liability, and statute of limitations;

(g) Severance of trial as to any co-defendant or joinder of any related case;

(h) Use or identification of an informer, use of lineup or other identification

evidence, use of evidence of prior convictions of defendant or any witness;

(i) Pretrial exchange of witnesses, expert or other, intended to be called in person or by deposition to testify at trial, except those who may be called only for impeachment or rebuttal;

(j) Pretrial resolution of objections to exhibits or testimony to be offered at trial;

(k) Preparation of trial briefs on legal issues likely to arise at trial;

(l) Scheduling of the trial and of witnesses;

(m) Discussion of proposed jury instructions and voir dire jury examination.

Rule 320

APPOINTMENT, APPEARANCE AND WITHDRAWAL OF COUNSEL

320-1. Right to and Appointment of Counsel.

If a criminal defendant appears without counsel and desires to obtain counsel, a reasonable continuance for arraignment, not exceeding one week, shall be granted for that purpose. If the defendant requests Court appointment of counsel or fails for an unreasonable time to appear with his or her own counsel, the Court shall, subject to the applicable financial eligibility requirements, appoint counsel unless the defendant elects to proceed without counsel and signs and files the Court-approved form waiving right to counsel. In appropriate cases, the Court may nevertheless designate counsel to advise and assist a defendant who elects to proceed without counsel to the extent the defendant might thereafter desire. Appointment of counsel shall be made in accordance with the plan of the Court adopted pursuant to applicable federal standards and filed with the clerk.

320-2. Appearance and Withdrawal of Retained Counsel.

An attorney who has been retained and who has appeared in a criminal proceeding may withdraw only upon notice to the defendant and all parties and upon a Court order finding that good cause exists for granting leave to withdraw. Until leave is granted, the retained attorney shall continue to represent the defendant until: (1) the case

is dismissed; (2) the defendant is acquitted, or; (3) if convicted, the time has expired for making post-trial motions and for filing a notice of appeal as specified in Federal Rule of Appellate Procedure 4(b) and until counsel has satisfied the requirements of Federal Rule of Appellate Procedure, 3(d).

Rule 330

ARRESTS

330-1. Arrest by Federal Agencies or Others.

It shall be the duty of all Federal and Commonwealth agencies who arrest any person as a federal prisoner in the Northern Mariana Islands to promptly notify the U.S. Marshal of any arrest or incarceration.

Rule 340

PRETRIAL PLEADINGS AND MOTIONS

340-1. Time for Filing Pretrial Motions.

All motions under Federal Rule of Criminal Procedure 12(b), including discovery motions, shall be filed within fourteen (14) days after plea. The Court for good cause may extend the time for filing motions. Nothing in this Rule prohibits the filing and hearing of appropriate motions prior to plea.

340-2. Memorandum in Support of or in Opposition to Motions.

(a) Memorandum in Support of Motions. A party filing a motion shall file and serve the adverse party with a supporting memorandum which briefly and concisely states the facts and points and authorities upon which the party intends to rely.

(b) Memorandum in Opposition to Motion. A party opposing a motion shall serve and file upon the adverse party a memorandum opposing the motion. The memorandum shall briefly and concisely state the facts and points and authorities upon which the party relies.

(c) Non-opposition. A party not opposing a motion shall file a statement of non-opposition within the time provided for responding to the motion. Absent such a filing, the motion will be deemed meritorious.

(d) Notice, Time for Reply. Unless the Rules or a Court order require a different time limit, all motions shall be noticed in writing on the Court's motion calendar and heard

in the manner prescribed by L.R. 220-3. See, also, L.R. 100-7 re reply briefs.

340-3. Local Civil Rules Applicable to Criminal Motions.

The Local Rules pertaining to civil motions are applicable to motions in criminal proceedings, specifically Local Rule 220-4 (Length of Briefs and Memoranda), Local Rule 220-5 (Filing Extra Copies), Local Rule 220-6 (Related and Counter Motions), and Local Rule 220-12 (Failure to Comply with Rules).

Rule 350

POST TRIAL PLEADINGS AND MOTIONS

350-1. Responses to Motions for Reconsideration and Reduction of Sentence.

No answer or response to a motion for a reduction of sentence is required unless requested by the Court. A request for reduction of sentence ordinarily will not be granted in the absence of a motion.

Rule 360

HABEAS CORPUS

360-1. Habeas Corpus Petitions and Motions Under Section 2255.

(a) All petitions for writs of habeas corpus (pursuant to 28 U.S.C. § 2255) shall be subject to the provisions of this Rule unless otherwise ordered by the Court.

(b) The petition or motion shall be in writing, accompanied by all Commonwealth Court opinions and judgments in the case, and signed under penalty of perjury, and, if presented in propria persona, upon the form and in accordance with the instructions approved by the Court. Copies of the forms and instructions shall be supplied by the Clerk upon request. A petitioner who is unable to furnish the opinions and judgments in the case shall state why they are unavailable and where they may be obtained. If they are not furnished by petitioner, the respondent shall furnish them to the Court or state why such documents are not supplied.

(c) All petitions by Commonwealth prisoners shall state with specificity that all issues raised in the petition:

1. Have been raised before all Commonwealth tribunals in which the issues could be heard, to the exhaustion of the petitioner's Commonwealth remedies, or

2. Have not been raised before all Commonwealth tribunals in which the issues could be heard, along with all facts which justify the failure to exhaust Commonwealth remedies.

(d) All petitions by Commonwealth prisoners, if the petitions request an evidentiary

hearing, shall state that:

1. Each issue of fact to be raised at the hearing has not been the subject of a Commonwealth Court evidentiary hearing in which a finding was made as to the fact in question, or

2. For those issues that were raised in a prior Commonwealth Court evidentiary hearing, the Commonwealth hearing was not a full and fair consideration of the issue of fact in question, along with all reasons why the Commonwealth hearing was inadequate.

(e) All petitions shall state whether or not petitioner has previously sought relief arising out of the same matter from this Court or from any other federal Court, together with the ruling and reasons given for denial of relief.

(f) If the petitioner has previously filed a petition for relief or for a stay of enforcement in the same matter in this Court, the new petition shall be assigned to the judge who considered the prior matters.

(g) If a hearing in which petitioner will be represented by counsel is granted by the Court, a pretrial conference of Court and counsel shall be held and a Pretrial Order filed. The Pretrial Order should list all grounds for upsetting the conviction or sentence which appear relevant, whether or not raised in the petition or motion, as issues of fact to be tried at the hearing, along with related issues of law.

(h) In its decision, the Court should make a specific finding on each issue of fact listed in the Pretrial Order, and should Rule expressly on each issue of law, stating the reasons for ruling.

(i) If relief is granted on a petition of a Commonwealth prisoner, or if any stay of execution of the Commonwealth Court judgment is issued by the Court, the clerk shall forthwith notify the Commonwealth authority having jurisdiction over the prisoner of the action taken.

(j) If relief is denied such Commonwealth prisoner and a certificate of probable cause is issued, the Court will also grant a stay of execution to continue in effect until such time as the Court of Appeals acts in the matter; and the Clerk of this Court shall forthwith notify the Clerk of the Court of Appeals of the action taken.

CHAPTER IV - BANKRUPTCY RULES

400-1. Bankruptcy Division.

All petitions filed under Title 11 of the U.S. Code and all papers, pleadings, documents, proceedings, and motions filed in connection with any case, or with any proceeding arising in, or under, or related to a case filed under Title 11 shall be filed in the United States District Court for the Northern Mariana Islands, Bankruptcy Division.

400-2. Forms.

The official forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economy in their use.

400-3. Form of Pleadings/Cover Sheets.

(a) Pleadings filed with the bankruptcy Court shall conform to the requirements of Rule 120 of the District Court Local Rules except that the title of the Court shall read:

United States District Court
for the Northern Mariana Islands

Bankruptcy Division

and the bankruptcy case number and the adversary proceeding number shall both be included, where applicable, in the space to the right of center, opposite the name of the action or proceeding.

(b) In every adversary proceeding filed in this Court, the complaint shall be accompanied by a properly completed bankruptcy cover sheet. The petition in every bankruptcy case (Chapters 7, 9, 11, 12 or 13) filed in this Court shall be accompanied by a properly completed bankruptcy petition cover sheet.

400-4. Master Mailing Matrix.

The debtor shall file on a form approved by the Clerk a master mailing list of the names and mailing addresses of all creditors listed on "Schedule A - Statement of All Liabilities of Debtor" concurrently with, and as an integral part of, the schedules of debts and assets. The debtor shall include his or her name and address and that of his or her attorney and the United States Trustee as the first items on the master mailing list. The debtor shall then list creditors in the same order as listed on Schedule A and shall also include names and addresses of parties to pending lawsuits indicated in the debtor's "Statement of Financial Affairs." If the debtor is a partnership or a corporation the names and addresses of all general partners or corporate officers shall also be included on the list.

A supplement to the master list shall be submitted with the filing of any amended schedule of creditors. The supplement shall only list the complete names and addresses of the additional creditors and corrections to the master list, and shall not otherwise repeat creditors set forth in the master list.

Accuracy and completeness in preparing the master list and any supplement thereto is the responsibility of the debtor and his or her attorney, if any. Notices shall be

mailed to those listed on the master list, as amended from time to time, at the addresses shown therein and to such governmental entities as are required by law. The master mailing list shall contain a declaration by the debtor and/or debtor's counsel attesting to the completeness and correctness of the list.

Any party who mails a notice to creditors and parties in interest shall have the responsibility of comparing the names and addresses shown on the master mailing matrix to the names and addresses shown on schedules, amendment to schedules, requests for notices, any related adversary files and proof of claim filed by creditors to ensure accuracy and completeness of the master mailing matrix prior to the mailing of such notice. Note: All notices required to be mailed under this Rule to a creditor, equity security holder, or indenture trustee shall be addressed as his or her authorized agent may direct in a request filed with the Court; otherwise, to the address shown in the list of creditors or the schedule, whichever is filed later, but if a different address is stated in a proof of claim duly filed, that address should be used. See, BK 2002(g).

If one of the following specifically named agencies is a creditor of the debtor(s), the schedule of creditors and matrix of creditors submitted with any petition for relief under Title 11 shall list that agency at the following address:

DEPARTMENT OF AGRICULTURE

U.S. Department of Agriculture
Office of the General Counsel
211 Main Street, Suite 1060
San Francisco, CA 94105-1924

FARMERS HOME ADMINISTRATION (FmHA)
Farmers Home Administration
Suite 407, Pacific News Building
238 Archbishop Flores Street
Agana, Guam 96910

DEPARTMENT OF EDUCATION

Regional Director, Region IX
Department of Education
50 United Nations Plaza
San Francisco, CA 94102
(Debtor's social security number shall be included)

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the General Counsel
Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201
(Debtor's social security number shall be included)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Chief Counsel
U.S. Department of Housing and
Urban Development
300 Ala Moana Blvd., Room 3318
Honolulu, HI 96850-4991

INTERNAL REVENUE SERVICE (IRS)

Internal Revenue Service
Office of Assistant Commissioner International
Special Procedures Function
IN:C:C
Mercantil Plaza
Avenida Ponce de Leon Bldg.
Hato Rey, PR 00918

UNITED STATES POSTAL SERVICE

Regional Post Master General
Attn: Office of Field Legal Service
U.S. Postal Service
850 Cherry Ave.
San Bruno, CA 94093

SMALL BUSINESS ADMINISTRATION (SBA)

District Counsel
U.S. Small Business Administration
300 Ala Moana Blvd., Room 2213
Post Office Box 50207
Honolulu, HI 96850

VETERANS ADMINISTRATION (VA)

District Counsel
Veterans Administration
300 Ala Moana Blvd.
P.O. Box 50188
Honolulu, HI 96850

When a creditor that is a department, agency, or instrumentality of the United States is listed, the United States Attorney's office shall also be listed next to the name of the agency holding the claim in each schedule of creditors and matrix of creditors and shall also get notice at the following address:

United States Attorney's Office
Horiguchi Building - 3rd Floor
P.O. Box 377
Saipan, MP 96950

400-5. Responsibility for Providing Notice.

(a) General. Unless otherwise specifically directed, the petitioner, movant, or reporting entity shall be responsible for providing notice of any filing with the Court to all

parties in interest, including the trustee, if any, and any entity which has filed written request for notice, all in accordance with Bankruptcy Rule 2002.

(b) Notice of §341(a) Meetings. When a bankruptcy petition is filed with the Clerk, a copy shall be transmitted immediately to the U.S. Trustee who, within three (3) working days of receipt, shall notify the Clerk of the date on which the §341(a) meeting has been set. The Clerk shall then notify all interested parties of the date of the §341(a) meeting.

(c) Corporate Petitions.

1. When a voluntary petition is filed by a corporation there shall be attached to the petition as an exhibit a true copy of the resolution of the petitioner's board of directors authorizing the filing of the petition.

2. A corporation or unincorporated association (including a partnership) may not file a petition or otherwise appear pro se in any case or proceeding, except for filing a proof of claim or a reaffirmation agreement, if signed by an officer of the corporation, partner of the partnership, or member of the unincorporated association.

(d) Notice of Orders and Opinions. Unless the Court directs otherwise, the Clerk's office will provide copies of all orders and opinions in accordance with Local Bankruptcy Rules and the Federal Bankruptcy Rules.

(e) Required Notice When Schedules Are Filed After the Date The Petition is Filed:

(1) Chapter 7, 11 and 12 Cases: When schedules and statements required by Bankruptcy Rule 1007 are filed with the Court after the date the debtor's petition was filed, or when such schedules or statements are amended pursuant to Bankruptcy Rule 1009,

the debtor shall serve on the trustee and any case trustee (if different than the U.S. Trustee) a copy of the (amended) schedules and statements.

(2) Chapter 13 Cases. When the Chapter 13 statement required by Bankruptcy Rule 1007 or Chapter 13 plan required by Bankruptcy Rule 3015 is filed with the Court, or when amended pursuant to Bankruptcy Rule 1009, the debtor shall serve a copy of the Chapter 13 statement and/or plan on the U.S. Trustee.

(3) In addition, Debtor shall give notice of the date of filing of the petition to any entity not named in the original lists, statements and schedules filed with the petition when the case was commenced. If applicable, the notice shall be accompanied by: (1) a copy of the "Order and Notice of Section 341(a) Meeting"; and (2) any Discharge of Debt or Notice of Order Confirming Plan.

(4) Debtor shall attach to any document filed after the date of the original petition, a certification showing compliance with this Rule.

(f) Notice to the United States Trustee.

(1) Uncontested Motions & Notices of Intent. The moving party shall serve on the U.S. Trustee a copy of the following motions and notices of intent and any documents in support thereof:

(a) Intended abandonment of property (by debtor or trustee) as governed by Bankruptcy Rule 6007;

(b) Intended compromise or settlement of controversy (by debtor or trustee) as governed by Bankruptcy Rule 9019;

(c) Motion to dismiss Chapter 7, 11, or 12 cases as governed by

Bankruptcy Rule 1017(a). In addition, such motion shall set forth the terms of any arrangements or agreements with any entity in consideration of the dismissal;

(d) Motion for relief from automatic stay, as governed by Bankruptcy Rule 4001.

(2) Contested Motions. The moving party shall serve on the U.S. Trustee a copy of any motions and notices of hearing given pursuant to Bankruptcy Rule 9014.

(3) Ex Parte Motions. The moving party shall serve on the U.S. Trustee and the case trustee (when that trustee is not a member of the U.S. Trustee's staff), a copy of all ex parte motions and proposed orders filed in Bankruptcy cases.

(4) No Limitation of Other Service Requirements. Nothing in this local Rule shall limit or modify the requirements of service upon the U.S. Trustee of all pleadings, motions, applications or other legal documents as set forth in Bankruptcy Rules X-1008 and X-1009.

The address of the United States Trustee is

U.S. Department of Justice
Office of the U.S. Trustee
Pacific News Building, Suite 805
238 Archbishop Flores Street
Agana, Guam 96910

Parties are hereby notified that service upon the United States Trustee is in addition to service required upon any case trustee (where that trustee is not a member of the U.S. Trustee's staff) or other party in interest as set forth in the Bankruptcy Rules.

(g) Summons and Notice of Hearing.

Movant must mail or otherwise properly serve summons and notice of hearing after

the dates and proper signatures have been supplied by the Court.

(h) Notice to Other Courts.

Within ten days of the filing of the petition, the debtor is required to give written notification to each Court or administrative tribunal in which there is pending litigation involving the debtor. Copies of that written notification shall be mailed simultaneously by the debtor to all attorneys of record in the pending lawsuits.

400-6. Operating Reports For Chapter 11. A Chapter 11 debtor-in-possession shall comply with all requirements of the U.S. Trustee's Office, particularly as to the filing monthly of operating reports.

400-7. Chapter 11 Debtor's Duty To File Plan. The Chapter 11 debtor in possession must file a proposed plan pursuant to the requirements of Bankruptcy Code §1112(b).

CHAPTER V

RULES OF ADMIRALTY PROCEDURE

LOCAL ADMIRALTY Rule A. SCOPE AND DEFINITIONS

1. Scope. The local admiralty Rules apply only to civil actions that are governed by Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rule or Rules.) All other local Rules are applicable in these cases, but to the extent that another local Rule is inconsistent with the applicable local admiralty Rules, the local admiralty Rule shall govern.

2. Officers of Court. As used in the local admiralty Rules, "judicial officer" means a Judge of the District Court; "Clerk of Court" means the Clerk of the District Court and includes Deputy Clerks of Court; and "marshal" means the United States Marshal and includes deputy marshals.

LOCAL ADMIRALTY Rule B. ATTACHMENT AND GARNISHMENT

1. Affidavit that Defendant Is Not Found Within the District. The affidavit required by Supplemental Rule B(1) to accompany the complaint shall list the efforts made by and on behalf of plaintiff to find and serve the defendant within the district. The phrase "not found within the district" in Supplemental Rule B(1) means that, in an in personam action, the defendant cannot be served with the summons and complaint as provided in Federal Rule Civil Procedure 4(d).

LOCAL ADMIRALTY Rule C. ACTIONS IN REM:

SPECIAL PROVISIONS

1. Undertakings in Lieu of Arrest. If, before or after commencement of suit, plaintiff accepts any written undertaking to respond on behalf of the vessel or other property sued in return for his or her foregoing the arrest or stipulating to the release of such vessel or other property, the undertaking shall become a defendant in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order or judgment in the action referred to in the undertaking.

2. Intangible Property. The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of intangible property to show cause no later than ten (10) days after service why the intangible property should not be delivered to the Court to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the intangible property and brings it within the control of the Court. The person who is served may deliver or pay over to the marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. Claimants of the property may show cause as provided in Supplemental Rule C(6) why the property should not be delivered to or retained by the Court.

3. Notice of Action and Arrest.

(a) Publication. The notice required by Supplemental Rule C(4) shall be published

once in a local newspaper of general circulation and plaintiff's attorney shall file a copy of the notice as it was published with the Clerk. The notice shall contain:

(1) The Court, title, and number of the action;

(2) The date of the arrest;

(3) The identity of the property arrested;

(4) The name, address, and telephone number of the attorney for plaintiff;

(5) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Supplemental Rule C(6) must be filed with the Clerk and served on the attorney for plaintiff within ten (10) days after publication;

(6) A statement that an answer to the complaint must be filed and served within twenty (20) days after publication, and that otherwise, default may be entered and condemnation ordered;

(7) A statement that applications for intervention under Federal Rule 24 by persons claiming maritime liens or other interests shall be filed within the time fixed by the Court; and

(8) The name, address, and telephone number of the marshal.

(b) Filing of Proof of Publication. Plaintiff shall cause to be filed with the Clerk no later than thirty (30) days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the publication or reproduction thereof.

4. Default In Action In Rem.

(a) Notice Required. A party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been given (1) by publication as required in Local Rule C.3, (2) by service upon the master or other person having custody of the property, and (3) by service under Federal Rule 5(b) upon every other person who has not appeared in the action and is known to have an interest in the property.

(b) Persons with Recorded Interests. (1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the United States Coast Guard certificate of ownership. (2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must attempt to notify the persons named in the records of the issuing authority. (3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such registry.

(c) Failure to Give Notice. Failure to give notice as provided by this Rule shall be grounds for setting aside the default under applicable Rules but shall not affect title to property sold pursuant to order of sale or judgment.

5. Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may apply for entry of default under Federal Rule 55(a). Default will be entered upon a showing that:

(a) Notice has been given as required by Local Rule C.4(a); and,

(b) Notice has been attempted as required by Local Rule C.4(b), where appropriate; and,

(c) The time for answer has expired; and,

(d) No one has appeared to claim the property.

Judgment may be entered under Federal Rule 55(b) at any time after default has been entered.

LOCAL ADMIRALTY Rule D. POSSESSORY, PETITORY, AND PARTITION ACTIONS

1. Return Date. In an action under Supplemental Rule D, a judicial officer may order that the claim and answer be filed on a date earlier than twenty (20) days after arrest. The order may also set a date for expedited hearing of the action.

LOCAL ADMIRALTY Rule E. ACTIONS IN REM AND QUASI IN REM: GENERAL PROVISIONS

1. Itemized Demand for Judgment. The demand for judgment in every complaint filed under Supplemental Rule B or C, except a demand for a salvage award, shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Supplemental Rule E(5)(a) may be based upon these allegations.

2. Verification of Pleadings. Every complaint in Supplemental Rules B, C, and

D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

3. **Review by Judicial Officer.**

(a) Authorization to Issue Process. Except in actions by the United States for forfeitures, before the Clerk will issue a summons and process of arrest, attachment, or garnishment to any party, including intervenors, under Supplemental Rules B and C, the pleadings, the affidavit required by Rule B, and accompanying supporting papers must be reviewed by a judicial officer. If the judicial officer finds the conditions set forth in Rule B or C appear to exist, as appropriate, the judicial officer shall authorize the Clerk to issue process. Supplemental process or alias process may thereafter be issued by the Clerk upon application without further order of the Court.

(b) Exigent Circumstances. If the plaintiff or his or her attorney certifies by affidavit submitted to the Clerk that exigent circumstances make review impracticable, the Clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeiture for federal statutory violations, the Clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for the arrest of the vessel or other property without requiring a certification of exigent circumstances.

(c) Personal Appearance. Unless otherwise required by the judicial officer, the review by the judicial officer will not require the presence of the applicant or its attorney but shall be based upon the pleadings and other papers submitted on behalf of that party.

(d) Order. Upon approving the application for arrest, attachment, or garnishment, the judicial officer will issue an order to the Clerk authorizing the Clerk to issue an order for arrest, attachment, or garnishment. The proposed form of order authorizing the arrest, attachment, or garnishment, and the order of arrest, attachment, or garnishment shall be submitted with the other documents for review.

(e) Request for Review. Except in cases of exigent circumstances, application for review shall be made by filing a "Notice of Request For Review In Accordance With Supplemental Rule B or C" with the Clerk and stating therein the process sought and any time requirements within which the request must be reviewed. The Clerk shall contact the judicial officer to whom the matter is assigned to arrange for the necessary review. It will be the duty of the applicant to ensure that the application has been reviewed and, upon approval, presented to the Clerk for issuance of the appropriate order.

4. Process Held In Abeyance. If a party does not wish the process to be issued at the time of filing the action, the party shall request that issuance of process be held in abeyance. It will not be the responsibility of the Clerk or the marshal to ensure that process is issued at a later date.

5. Service by Marshal Required. Only a marshal shall arrest or attach a vessel, cargo or other tangible property.

6. Instructions to the Marshal. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the marshal.

7. Property in Possession of United States Officer. When the property to be attached or arrested is in the custody of an employee or officer of the United States, the marshal will deliver a copy of the complaint and warrant of arrest or summons and process of attachment or garnishment to that officer or employee if present, and otherwise to the custodian of the property. The marshal will instruct the officer or employee or custodian to retain custody of the property until ordered to do otherwise by a judicial officer.

8. Security for Costs. In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the Clerk pursuant to Supplemental Rule E(2)(b). Unless otherwise ordered, the amount of security shall be $500. The party so ordered shall post the security within five (5) days after the order is entered. A party who fails to post security when due may not participate further in the proceedings. A party may move for an order increasing the amount of security for costs.

9. Adversary Hearing. The adversary hearing following arrest or attachment or garnishment that is called for in Supplemental Rule E(4)(f) shall be conducted upon three days written notice to plaintiff, unless otherwise ordered. This Rule shall have no application to suits for seamens' wages when process is issued upon a certification of sufficient cause filed pursuant to 46 U.S.C. §§ 603 and 604 or to actions by the United States for forfeitures.

10. Appraisal. An order for appraisal of property so that security may be given or altered will be entered by the Clerk at the request of any interested party. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give one day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. The appraiser's fee will be paid by the moving party, unless otherwise ordered or agreed but it is a taxable cost of the action.

11. Security Deposit for Arrest or Attachment of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the marshal the sum estimated by the marshal to be sufficient to cover the expenses of the marshal including, but not limited to dockage, keepers, maintenance, and insurance for at least ten (10) days. The marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time as requested to cover the marshal's estimated expenses until the property is released or disposed of as

provided in Supplemental Rule E.

12. Intervenors' Claims.

(a) Presentation of Claim. When a vessel or other property has been arrested, attached or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The Clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the marshal.

(b) Sharing Marshal's Fees and Expenses. An intervenor shall owe a debt to the first plaintiff, enforceable on motion, consisting of the intervenor's share of the marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits vacation of an arrest, attachment, or garnishment, remaining plaintiffs share the responsibility to the marshal for fees and expenses in proportion to the remaining claims and for the duration of the marshal's custody because of each claim.

13. Custody of Property.

(a) Safekeeping of Property. When a vessel, cargo, or other property is brought

into the marshal's custody by arrest or attachment, the marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. Upon motion a substitute custodian in place of the marshal may be appointed by order of the Court.

(b) Insurance. The marshal may procure insurance to protect the marshal, his or her deputies, keepers, and substitute custodians, from liabilities assumed in arresting and holding the vessel, cargo, or other property, and in performing whatever services may be undertaken to protect the vessel, cargo, or other property, and to maintain the Court's custody. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.

(c) Vessel Operations. Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of Court. The applicant for such an order shall give notice to the marshal and to all parties of record. Upon proof of adequate insurance coverage of the applicant to indemnify the marshal for his or her liability, the Court may direct the marshal to permit cargo handling, repairs, movement of the vessel, or other operations. Before or after the marshal has taken custody of a vessel, cargo or other property, any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian or for similar relief. Notice of the motion shall

be given to the marshal and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the marshal, before issuing the order to change arrangements.

(d) Claims by Suppliers for Payment of Charges. A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.

14. Sale of Property.

(a) Notice. Notice of sale of arrested or attached property shall be published in one or more newspapers to be specified in the order for sale. Unless otherwise ordered by a judge upon a showing of urgency or impracticality or unless otherwise provided by law, such notice shall be published for at least six consecutive days before the date of sale.

(b) Payment of Bid. Unless otherwise provided in the order, in all public auction sales by the marshal under orders of sale in admiralty and maritime claims, the marshal shall require of the last and highest bidder at the sale a minimum deposit in cash, certified check or cashier's check, of the full purchase price if it does not exceed $500, and otherwise $500 or ten percent of the bid, whichever is greater. The balance, if any, of the purchase price shall be paid in cash, certified check or cashier's check before

confirmation of the sale or within three days of the dismissal of any opposition which may have been filed, exclusive of Saturdays, Sundays and legal holidays. Notwithstanding the above, a plaintiff or intervening plaintiff foreclosing a properly recorded and endorsed preferred mortgage on, or other valid security interest in, the vessel may bid, without payment of cash, certified check, or cashier's check, up to the total amount of the secured indebtedness as established by affidavit filed and served by that party on all other parties no later than ten (10) days prior to the date of sale.

(c) Report and Confirmation. At the conclusion of the sale, the marshal shall forthwith file a written report to the Court of the fact of sale, the price obtained and the name and address of the buyer. The Clerk of the Court shall endorse upon such report the time and date of its filing. If within three days, exclusive of Saturdays, Sundays, and legal holidays, no written objection is filed, the sale shall stand confirmed as of course, without the necessity of any affirmative action thereon by the Court and the Clerk upon request shall so state to the marshal in writing; except that no sale shall stand confirmed until the buyer has complied fully with the terms of his or her purchase. If no opposition to the sale is filed, the expenses of keeping the property pending confirmation of sale shall be charged against the party bearing expenses before the sale (subject to taxation as costs), except that if confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the cost of keeping the property subsequent to the three-day period hereinabove specified shall be borne by the purchaser.

(d) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these Rules or a different time specified

by the Court shall also pay the marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the Court, the marshal shall refuse to release the property until the additional charge is paid.

(e) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default and the Court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be applied to pay any additional costs incurred by the marshal by reason of the default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court, and the Court shall be given written notice of its existence whenever the registry deposits are reviewed.

(f) Opposition to Sale. A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the marshal, shall give prompt notice to all other parties and to the purchaser. Such party shall also, prior to filing an opposition, secure the marshal's endorsement upon it acknowledging deposit with the marshal of the necessary expense of keeping the property for at least five days. Pending the Court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the marshal shall request, or as the Court orders upon application of the marshal or the opposing party. Such expense may later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the Court. If the

opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

(g) Disposition of Deposits.

(1) Objection Sustained. If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

(2) Objection OverRuled. If the objection is overRuled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

LOCAL ADMIRALTY Rule F.

LIMITATION OF LIABILITY

1. Security for Costs. The amount of security for costs under Supplemental Rule F(1) shall be $1000 unless otherwise ordered and it may be combined with the security for value and interest.

2. Order of Proof at Trial. Where the vessel interests seeking statutory limitation of liability have raised the statutory defense by way of answer or complaint, the plaintiff in the former or the damage claimant in the latter shall proceed with its proof first, as in

normal civil trials.

LOCAL ADMIRALTY Rule G. MISCELLANEOUS

1. Deserting Seamen Cases.

(a) Service. Upon filing a verified petition for return of wages deposited in the registry of the Court by a Coast Guard official to whom the duties of shipping commissioner have been delegated pursuant to the provisions of 46 U.S.C. § 11505, a copy of the petition shall be served forthwith on the United States Attorney and a copy mailed to the Attorney General of the United States, after which a sworn return of such service and mailing shall be filed.

(b) Time to Plead. The United States has twenty days after receipt of a copy of the petition by the United States Attorney in which to file its responsive pleading and claim.

2. Rate of Prejudgment Interest Allowed. Unless a judge directs otherwise or as provided by statute, prejudgment interest shall be awarded at the rate authorized in 28 U.S.C. § 1961, providing for interest on judgments.

3. Assignment of Actions. If the judge to whom a case under the Local Admiralty Rules has been assigned is not readily available, any matter pertaining to arrest, attachment, garnishment, security or release may be presented to any other judicial officer in the district without reassigning the case.

CHAPTER VI

TAX RULES

600-1. Tax Division.

The Rules in this chapter are adopted pursuant to The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, reprinted as amended in 48 U.S.C.A. § 1681 note (West 1987) ("Covenant"), implemented by Public Law No. 95-157, 91 Stat. 1266 (Nov. 8, 1977), including Covenant articles IV and VI; 48 U.S.C. §1694a; 4 CMC §1701(j); and, Fed.R.Civ.P. 83. Pursuant thereto, this Court is vested with the same jurisdiction with regard to the Northern Marianas Territorial Income Tax as the Tax Court of the United States is vested with respect to the United States Income Tax, and this Court is empowered to implement such jurisdiction by enacting necessary Rules of procedure. Id.; see also, 26 U.S.C. §7442 (1954). Cases subject to the tax jurisdiction of this Court and to these Rules shall be filed in this Court's Tax Division.

600-2. Effective Date, Scope of Rules, and Construction.

(a) Effective Date. These Tax Rules shall apply to all cases and proceedings pending on or commenced after July 1. 1993, in this Court's Tax Division (hereinafter referred to as the "Tax Division").

(b) Scope. These Tax Rules shall govern the practice and procedure in all cases and proceedings in the Tax Division. Where in any instance these Tax Rules do not

provide an applicable Rule of procedure, the Federal Rules of Civil Procedure shall apply; provided, however, that if the application of a particular Federal Rule of Civil Procedure would be inconsistent with the jurisdiction of the Tax Division, or if a Rule of procedure set forth in the Rules of Practice and Procedure of the United States Tax Court would be more suitable for the particular matter at hand, this Court may, on the motion of a party or on its own motion, direct that such Federal Rule of Civil Procedure shall not apply, or prescribe the applicable procedure.

(c) Construction. These Tax Rules shall be construed to secure the just, speedy, and inexpensive determination of every case in the Tax Division.

600-3. Commencement of Case.

A case is commenced in the Tax Division by filing a petition with this Court to redetermine a deficiency or liability set forth in a notice of deficiency issued in accordance with the Northern Marianas Territorial Income Tax. See, 4 CMC, Div. 1.

600-4. Pleadings Allowed.

There shall be a petition and answer and, where required under these Rules or the Rules of Practice and Procedure of the United States Tax Court, a reply. No other pleading shall be allowed, except that the Court may permit or direct other responsive pleadings.

600-5. Filing of Petition for Redetermination.

(a) A taxpayer may file with this Court a petition to redetermine a deficiency or liability within ninety (90) days after the notice of deficiency or liability is mailed to the taxpayer's last known address by registered mail or certified mail, or one hundred and fifty (150) days if the notice is mailed to the taxpayer's last known address by registered mail or certified mail and the taxpayer's last known address is not located within the Commonwealth of the Northern Marianas Islands ("CNMI").

(b) Ordinarily, a separate petition shall be filed with respect to each notice of deficiency or each notice of liability. However, a single petition may be filed seeking a redetermination with respect to all notices of deficiency or liability directed to one person alone or to that person and one or more other persons, except that the Court may require a severance and a separate case to be maintained with respect to one or more of such notices. Where the notice of deficiency or liability is directed to more than one person, each such person desiring to contest it shall file a petition on his or her own behalf, either separately or jointly with any such other person, and each such person must satisfy all the requirements of this Rule with respect to himself or herself in order for the petition to be treated as filed by or for him or her.

(c) The petition shall be complete, so as to enable ascertainment of the issues intended to be presented. No telegram, cablegram, radiogram, telephone call, facsimile transmission (except pursuant to L.R. 130-6), or similar communication will be recognized as a petition. Failure of the petition to satisfy applicable requirements may be ground for dismissal of the case.

600-6. Content of Petition in Deficiency or Liability Actions.

The petition in a deficiency or liability action shall contain:

(a) The petitioner's name and legal residence, in the case of a petitioner other than a corporation; in the case of a corporate petitioner, its name and principal place of business or principal office or agency; and, in all cases, the petitioner's identification number (e.g., Social Security number or employer identification number). The legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition.

(b) The date of mailing of the notice of deficiency or liability, or other proper allegations showing jurisdiction in the Court, and the location of the CNMI agency which issued the notice.

(c) The amount of the deficiency or liability, as the case may be, determined by the CNMI; the nature of the tax; the year or years or other periods for which the determination was made; and, if different from the CNMI's determination, the approximate amount of taxes in controversy.

(d) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the CNMI in the determination of the deficiency or liability. The assignments of error shall include issues for which the burden of proof is on the CNMI. Any issue not raised as an assignment of error shall by deemed to be conceded. Each assignment of error shall be separately set forth in numbered or lettered

paragraphs.

(e) Clear and concise separately numbered statements of the facts on which petitioner bases the assignment of error, except with respect to those assignments of error as to which the burden of proof is on the CNMI.

(f) A prayer setting forth the relief sought by the petitioner.

(g) The signature, mailing address, and telephone number of each petitioner or petitioner's counsel.

(h) A copy of the notice of deficiency or liability, as the case may be, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of deficiency or liability or accompanying statement incorporates by reference any prior notices of other material furnished by the CNMI, such parts thereof as are material to the issues raised by the assignments of error likewise shall be appended to the petition.

600-7. Filing Fee, Number Filed and Entry on Docket.

For each petition filed, there shall be a signed original together with two conformed copies. The fee for filing a petition shall be $60.00, payable at the time of filing.

Upon receipt of the petition by the Clerk of Court, the case will be entered upon the docket and assigned a number, and the parties will be notified thereof by the Clerk. The docket number shall be placed by the parties on all papers thereafter filed in the

case, and shall be referred to in all correspondence with the Court.

600-8. Answer.

(a) Time to Answer or Move. The CNMI shall have 60 days from the date of service of the petition within which to file an answer, or 45 days from that date within which to move with respect to the petition. With respect to an amended petition or amendments to the petition, the CNMI shall have like periods from the date of service of those papers within which to answer or move in response thereto, except as the Court may otherwise direct.

(b) Form and Content. The answer shall be drawn so that it will advise the petitioner and the Court fully of the nature of the defense. It shall contain a specific admission or denial of each material allegation in the petition; however, if the CNMI shall be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the CNMI shall so state, and such statement shall have the effect of a denial. If the CNMI intends to qualify or to deny only a part of an allegation, then the CNMI shall specify so much of it as is true and shall qualify or deny only the remainder. In addition, the answer shall contain a clear and concise statement of every ground, together with the facts in support thereof on which the CNMI relies and has the burden of proof. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

(c) Effect of Answer. Every material allegation set out in the petition and not expressly admitted or denied in the answer shall be deemed to be admitted.

600-9. Reply.

(a) Time to Reply or Move. The petitioner shall have 45 days from the date of service of the answer within which to file a reply, or 30 days from that date within which to move with respect to the answer. With respect to an amended answer or amendments to the answer, the petitioner shall have like periods from the date of service of those papers within which to reply or move in response thereto, except as the Court may otherwise direct.

(b) Form and Content. In response to each material allegation in the answer and the facts in support thereof on which the CNMI has the burden of proof, the reply shall contain a specific admission or denial; however, if the petitioner shall be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the petitioner shall so state, and such statement shall have the effect of a denial. In addition, the reply shall contain a clear and concise statement of every ground, together with the facts in support thereof, on which the petitioner relies affirmatively or in avoidance of any matter in the answer on which the CNMI has the burden of proof. In other respects the requirements of pleading applicable to the answer provided in L. R. 600-8(b) shall apply to the reply. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

(c) Effect of Reply or Failure Thereof. Where a reply is filed, every affirmative allegation set out in the answer and not expressly admitted or denied in the reply shall be deemed to be admitted. Where a reply is not filed, the affirmative allegations in the answer will be deemed admitted.

(d) New Material. Any new material contained in the reply shall be deemed to be denied.

600-10. Stipulations for Trial.

(a) Stipulations required.

(1) General. The parties are required to stipulate, to the fullest extent to which complete or qualified agreement can or fairly should be reached, all matters not privileged which are relevant to the pending case, regardless of whether such matters involve fact or opinion or the application of law or fact. Included in matters required to be stipulated are all facts, all documents and papers or contents or aspects thereof, and all evidence which fairly should not be in dispute. Where the truth or authenticity of facts or evidence claimed to be relevant by one party is not disputed, an objection on the ground of materiality or relevance may be noted by any other party but is not to be regarded as just cause for refusal to stipulate. The requirement of stipulation applies under this Rule without regard to where the burden of proof may lie with respect to the matters involved. Documents or papers or other exhibits annexed to or filed with the stipulation shall be considered to be part of the stipulation.

(2) Stipulations to be Comprehensive. The fact that any matter may have been obtained through discovery, requests for admission, or through any other authorized procedure is not ground for omitting such matter from the stipulation. Such other procedures should be regarded as aids to stipulation, and matter obtained through them which is within the scope of paragraph (1) must be set forth comprehensively in the

stipulation, in logical order in the context of all other provisions of the stipulation.

(b) Form. Every stipulation required under this Rule shall be in writing, signed by the parties thereto or by their counsel, and shall observe the requirements of L.R. 130 as to form and style of papers, except that the required stipulations shall be filed with the Court in duplicate and only one set of exhibits shall be required. Documents or other papers which are the subject of stipulation in any respect and which the parties intend to place before the Court shall be annexed to or filed with the stipulation. The stipulation shall be clear and concise. Separate items shall be stated in separate paragraphs, and shall be appropriately lettered or numbered. Exhibits attached to a stipulation shall be numbered serially, i.e., 1, 2, 3, etc., if offered by the petitioner; shall be lettered serially, i.e., A, B, C, etc., if offered by the respondent, and shall be marked serially, i.e., JT-1, JT-2, JT-3, etc., if offered as joint exhibits.

(c) Filing. Executed stipulations prepared pursuant to this Rule, and related exhibits, shall be filed by the parties at least ten days before commencement of the trial of the case, unless the Court in the particular case shall otherwise specify. A stipulation when filed need not be offered formally to be considered in evidence.

(d) Objections. An objection to all or any part of a stipulation should be noted in the stipulation, but the Court will consider any objection to a stipulated matter made at the commencement of the trial or for good cause shown during the trial.

(e) Binding Effect. A stipulation shall be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation, unless otherwise permitted by the Court. The Court will not permit a party to a stipulation to qualify, change, or contradict

a stipulation in whole or in part, except that it may do so where justice requires. A stipulation and the admissions therein shall be binding and have effect only in the pending case and not for any other purpose, and cannot be used against any of the parties thereto in any other case or proceeding.

(f) Noncompliance by a Party

(1) Motion to Compel Stipulation. If, after the date of issuance of trial notice in a case, a party has refused or failed to confer with his or her adversary with respect to entering into a stipulation in accordance with this Rule, or has refused or failed to make such a stipulation of any matter within the terms of this Rule, the party proposing to stipulate may, at a time not later than 60 days prior to the date set for call of the case from a trial calendar, file a motion with the Court for an order directing the delinquent party to show cause why the matters covered in the motion should not be deemed admitted for the purposes of the case. The motion shall (i) show with particularity and by separately numbered paragraphs each matter which is claimed for stipulation; (ii) set forth in express language the specific stipulation which the moving party proposes with respect to each such matter and annex thereto or make available to the Court and the other parties each document or other paper as to which the moving party desires a stipulation; (iii) set forth the sources, reasons, and basis for claiming, with respect to each such matter, why it should be stipulated; (iv) show that opposing counsel or the other parties have had reasonable access to those sources or basis for stipulation and have been informed of the reasons for stipulation; and, (v) show proof of service of a copy of the motion opposing counsel of the other parties.

(2) Procedure. Upon the filing of such a motion, an order to show cause as moved shall be issued forthwith, unless the Court shall direct otherwise. The order to show cause will be served by the Clerk of the Court, with a copy thereof sent to the moving party. Within 20 days of the service of the order to show cause, the party to whom the order is directed shall file a response with the Court, with proof of service of a copy thereof on opposing counsel or the other parties, showing why the matter set forth in the motion papers should not be deemed admitted for purposes of the pending case. The responses shall list each matter involved on which there is no dispute, referring specifically to the numbered paragraphs in the motion to which the admissions relate. Where a matter is disputed only in part, the response shall show the part admitted and the part disputed. Where the responding party is willing to stipulate in whole or in part with respect to any matter in the motion by varying or qualifying a matter in the proposed stipulation, the response shall set forth the variance or qualification and the admission which the responding party is willing to make. Where the response claims that there is a dispute as to any matter in part or in whole, or where the response presents a variance or qualification with respect to any matter in the motion, the response shall show the sources, reasons and basis on which the responding party relies for that purpose. The Court, where it is found appropriate, may set the order to show cause for a hearing or conference at such time as the Court shall determine.

(3) Failure of Response. If no response is filed within the period specified with respect to any matter or portion thereof, or if the response is evasive or not fairly directed to the proposed stipulation or portion thereof, that matter or portion thereof may be

deemed stipulated for purposes of the pending case, and an order may be entered accordingly.

(4) Matters Considered. Opposing claims of evidence will not be weighed under this Rule unless such evidence is patently incredible, nor will a genuinely controverted or doubtful issue of fact be determined in advance of trial. The Court will determine whether a genuine dispute exists, or whether in the interests of justice a matter ought not be deemed stipulated.

(5) Sanctions. The Court may impose sanctions on the non-cooperating party.

600-11. Pretrial Conferences.

(a) General. In appropriate cases, the Court will undertake to confer with the parties in pretrial conferences with a view of narrowing issues, stipulating facts, simplifying the presentation of evidence, or otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial. Such conferences will be conducted in accordance with L.R. 240-4, 240-5, and 240-6.

(b) Cases Calendared. Either party in a case listed on any trial calendar may request of the Court, or the Court on its own motion may order, a pretrial conference.

(c) Conditions. A request or motion for a pretrial conference shall include a statement of the reasons therefor. Pretrial conferences will in no circumstances be held as a substitute for the conferences required between the parties in order to comply with the provisions of Local Rule 600-10, but a pretrial conference, for the purpose of assisting the parties in entering into the stipulations called for by Local Rule 600-10, will be held by

the Court where the party requesting such pretrial conference has in good faith attempted without success to obtain such stipulation from his or her adversary. Nor will any pretrial conference be held where the Court is satisfied that the request therefor is frivolous or is made for the purposes of delay.

(d) Order. The Court may, in its discretion, issue appropriate pretrial orders.

600-12. Decisions Without Trial.

(a) Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. The motion shall be filed and served in accordance with the requirements otherwise applicable. Such motion shall be disposed of before trial unless the Court determines otherwise.

(b) Summary Judgment.

(1) Matters Outside the Pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment.

(2) General. Either party may move, with or without supporting affidavits, for a summary judgment in his or her favor upon all or any part of the legal issues in controversy. Such motion may be made at any time commencing after the pleadings are closed but within such time as not to delay the trial.

600-13. Submissions Without Trial.

(a) General. Any case not requiring a trial for the submission of evidence (as, for example, where sufficient facts have been admitted, stipulated, established by deposition, or included in the record in some other way), may be submitted at any time by motion of the parties filed with the Court. The parties need not wait for the case to be calendared for trial and need not appear in Court. The Court will fix a time for filing briefs and/or for oral argument.

(b) Burden of Proof. Submission of a case under paragraph (a) of this Rule does not alter the burden of proof, or the requirements otherwise applicable with respect to adducing proof, or the effect of failure of proof.

600-14. Default and Dismissal.

(a) Default. When any party has failed to plead or otherwise proceed as provided by these Local Rules or as required by the Court, that party may be held in default by the Court either on motion of another party or on the initiative of the Court. Thereafter, the Court may enter a decision against the defaulting party, upon such terms and conditions as the Court may deem proper, or may impose such sanctions pursuant to L. R. 100-3, as the Court may deem appropriate. The Court may, in its discretion, conduct hearings to ascertain whether a default has been committed, to determine the decision to be entered or the sanctions to be imposed, or to ascertain the truth of any matter.

(b) Dismissal. For failure of a petitioner properly to prosecute or to comply with these Local Rules or any order of the Court or for other cause which the Court deems

sufficient, the Court may dismiss a case at any time and enter a decision against the petitioner. The Court may, for similar reasons, decide against any party any issue as to which that party has the burden of proof, and such decision shall be treated as a dismissal for purposes of paragraphs (c) and (d) of this Rule.

(c) Setting Aside a Default or Dismissal. For reasons deemed sufficient by the Court and upon motion expeditiously made, the Court may set aside a default or dismissal or the decision rendered thereon.

(d) Effect of Decision on Default or Dismissal. A decision rendered upon a default or in consequence of a dismissal, other than a dismissal for lack of jurisdiction, shall operate as an adjudication on the merits.

600-15. Burden of Proof.

(a) General. The burden of proof shall be upon the petitioner, except as otherwise provided by statute or determined by the Court; except that, in respect of any new matter, increases in deficiency, or affirmative defenses pleaded in the respondent's answer, it shall be upon the respondent.

(b) Fraud. In any case involving the issue of fraud with intent to evade tax, the burden of proof in respect of that issue is on the respondent, and that burden of proof is to be carried by clear and convincing evidence. See, 26 U.S.C. § 7454(a).

600-16. Computation by Parties for Entry of Decision.

(a) Agreed Computations. Where the Court has filed or orally stated its opinion determining the issues in a case, it may withhold entry of its decision for the purpose of permitting the parties to submit computations pursuant to the Court's determination of the issues, showing the correct amount of the deficiency, liability, or overpayment to be entered as the decision. If the parties are in agreement as to the amount of the deficiency or overpayment to be entered as the decision pursuant to the findings and conclusions of the Court, they, or either of them, shall file promptly with the Court an original and two copies of a computation showing the amount of the deficiency, liability, or overpayment, and that there is no disagreement that the figures shown are in accordance with the findings and conclusions of the Court. The Court will then enter its decision.

(b) Procedure in Absence of Agreement. If the parties are not in agreement as to the amount of the deficiency, liability, or overpayment to be entered as the decision in accordance with the findings and conclusions of the Court, either of them may file with the Court a computation of the deficiency, liability, or overpayment believed by that party to be in accordance with the Court's findings and conclusions. The Clerk of Court will serve upon the opposite party a notice of such filing accompanied by a copy of such computation. If the opposing party fails to file an objection within seven (7) days, accompanied or preceded by an alternative computation, the Court may enter its decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the parties which differ as to the amount to be entered

as the decision of the Court, the parties may, at the Court's discretion, be afforded an opportunity to be heard in argument thereon and the Court will determine the correct deficiency, liability, or overpayment and will enter its decision accordingly.

(c) Limit on Argument. Any argument under this Rule will be confined strictly to consideration of the correct computation of the deficiency, liability, or overpayment resulting from the findings and conclusions made by the Court, and no argument will be heard upon or consideration given to the issues or matters disposed of by the Court's findings and conclusions or to any new issues. This Rule is not to be regarded as affording an opportunity for retrial or reconsideration.

Appendix A

RULES OF DISCIPLINE

OF THE

UNITED STATES DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

The following Disciplinary Rules and Procedures are hereby adopted to be effective July 1, 1993, provided, however, that the procedures set forth herein shall be applied to all disciplinary actions now pending or hereinafter initiated.

Rule 1. Jurisdiction.

Any attorney admitted to practice law before this Court or any attorney specially admitted by this Court for a particular proceeding is subject to the disciplinary jurisdiction of this Court.

Nothing herein contained shall be construed to deny this Court such powers as are necessary for it to maintain control over proceedings before it, such as contempt power.

Rule 2. Grounds for Discipline.

An attorney may be subject to disciplinary action as set forth in these Rules for any of the following causes occurring within or outside the district of the Northern Mariana Islands:

(a) The commission of any act involving moral turpitude, dishonesty, or

corruption, whether the same be committed in the course of his or her conduct as an attorney, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action.

Upon such conviction, however, the judgment and sentence shall be conclusive evidence at a disciplinary hearing of his or her violation of the statute upon which it is based. A disciplinary hearing, as provided in Rule 10 of these Rules, shall be had to determine (1) whether moral turpitude was in fact an element of the crime committed by the respondent attorney, and (2) the disciplinary action recommended to result therefrom.

(b) Willful disobedience or violation of a court order directing him or her to do or cease doing an act which he or she ought to in good faith do or forbear.

(c) Violation of his or her oath or duties as an attorney.

(d) Willfully appearing without authority as an attorney for a party to an action or proceeding.

(e) Misrepresentation or concealment of a material fact made in his or her application for admission to the bar or reinstatement or in support thereof.

(f) Suspension, disbarment, or other disciplinary sanction by competent authority in any state, federal, territorial, commonwealth, or foreign jurisdiction.

(g) Practicing law with or in cooperation with a disbarred or suspended attorney, or maintaining an office for the practice of law in a room or office occupied or used in whole or in part by a disbarred or suspended attorney, or permitting a disbarred or suspended attorney to use his or her name for the practice of law, or practicing law for

or on behalf of a disbarred or suspended attorney, or practicing law under any arrangement or understanding for division of fees or compensation of any kind with a disbarred or suspended attorney, or with any person not authorized to practice law.

(h) Any acts or omissions by an attorney which violate the Model Rules of Professional Conduct of the American Bar Association as adopted in 1983 and as thereafter amended or judicially construed.

Rule 3. Types of Discipline.

Discipline may consist of:

(a) Disbarment; or,

(b) Suspension for a period not exceeding five (5) years; or

(c) Public censure; or

(d) Private reprimand.

Rule 4. Complaints.

(a) All complaints concerning violations of these Rules shall be filed with the Chief Judge.

(b) Upon receipt of a complaint alleging violation of these Rules, the Chief Judge shall designate one or more members of this Court's Bar, as necessary, to investigate the allegations of misconduct, and a three-member Disciplinary Committee, comprised of attorneys who are members of this Court's Bar.

Rule 5. Investigation Procedure.

(a) The person or persons designated to investigate a complaint shall conduct such an investigation as is warranted by the circumstances and shall submit a report to the Disciplinary Committee concerning the merits of the complaint.

(b) The report of the investigation shall include copies of statements of witnesses, all documentary evidence relative to the complaint, and a summary of the findings of the investigation, but shall not include recommended disciplinary action.

(c) No report shall be submitted until the respondent attorney has had a reasonable opportunity to submit to the person assigned to investigate the matter any evidence or statements relevant to the complaint, and such evidence or statements shall be attached to the investigation report.

Rule 6. Disciplinary Committee.

(a) Composition: The Disciplinary Committee shall consist of three attorneys who are admitted to the Bar of this Court.

(b) Duties: The Disciplinary Committee shall review all reports forwarded to it by the investigating attorney(s) and take such action pursuant to these Rules as it deems appropriate.

(c) Formal hearing: If the Disciplinary Committee determines a formal hearing is necessary, it will recommend to the Chief Judge that Prosecuting Counsel be appointed in accordance with Rule 8 and that a hearing be conducted in accordance with Rule 10.

Rule 7. Investigation Report Disposition and Appointment of Judicial Panel.

(a) If after review of the report of the investigation conducted in accordance with Rule 5 the Disciplinary Committee determines the complaint is unfounded or of a trivial nature, the Committee shall so inform the Chief Judge.

(b) If after a review of the report of the investigation conducted in accordance with Rule 5 the Disciplinary Committee determines that the matter warrants further consideration, the Committee shall so inform the Chief Judge, who will then appoint a three-judge Judicial Panel which shall, unless circumstances dictate otherwise, consist of the Chief Judge and two judges designated to sit in this Court.

Rule 8. Prosecuting Counsel.

(a) Appointment: Counsel will be appointed by the Chief Judge to prosecute allegations of misconduct.

(b) Duties: Upon appointment, counsel will prepare a formal complaint for filing with the Court and shall be responsible for the presentation of all evidence relevant to the complaint. Counsel shall also have authority to conduct such further investigation as is necessary regarding the alleged misconduct of respondent attorney.

Rule 9. Immunity of Investigating Counsel, Disciplinary Committee, and Prosecuting Counsel

Investigating Counsel, members of the Disciplinary Committee, the Prosecuting

Counsel, and all other investigators and staff shall be absolutely immune from civil suit and liability for any conduct in the course of their official duties. Such immunity shall extend to all cases, whether previously decided, currently pending, or to be investigated and prosecuted.

Rule 10. Hearing.

(a) Complaint: Formal disciplinary proceedings before the Court shall be instituted by the filing of a complaint which shall be sufficiently clear and specific to inform the respondent attorney of the alleged misconduct. A copy of the complaint shall be served upon the respondent.

(b) Answer: The respondent shall serve his or her answer upon the Prosecuting Counsel and file the original with the Court within twenty (20) days after service of the complaint, unless such time is extended by the Court. In the event the respondent fails to answer within the time allowed, or within any extension of time allowed by the Court, the charges shall be deemed admitted.

(c) Date of Hearing: The Court shall cause notice of the time and place of the hearing to be given to the respondent attorney at least ten (10) days prior thereto. The hearing will be conducted not earlier than thirty (30) days or later than ninety (90) days after service of the complaint, unless delayed for good cause.

(d) Where Held: All disciplinary hearings shall be held in the District Court at such time and at such place as may be directed by the Court.

(e) Public Excluded from Hearing: Unless a public hearing is requested in

writing by the respondent attorney at least five (5) days prior to the hearing, the hearing of a disciplinary matter shall not be public.

(f) Procedure: At every hearing respondent shall have full opportunity to cross-examine all witnesses presented by the Prosecuting Counsel and to present witnesses on his or her own behalf. The Court shall not be bound by the formal Rules of Evidence but it shall admit only trustworthy evidence.

(g) Findings and Conclusions: Within a reasonable time after the hearing, the Court shall enter its findings and the disciplinary action, if any, to be taken against respondent.

Rule 11. Refusal of Complainant to Proceed or Compromise. Neither unwillingness nor neglect of the complainant to prosecute a charge, nor settlement or compromise between the complainant and the respondent attorney, or restitution by the respondent attorney shall, in itself, justify abatement of the prosecution of any complaint.

Rule 12. Matters Involving Related Pending Civil or Criminal Litigation.

(a) Prosecution of a complaint shall not be deferred or abated because of substantial similarity to the material allegations of pending criminal or civil litigation, unless authorized by the Chief Judge in his or her discretion for good cause shown.

(b) The acquittal of an attorney on criminal charges or a verdict or judgment in his or her favor in civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary action predicated on the same material

allegations.

Rule 13. Service.

(a) Service upon the respondent of the complaint in any disciplinary proceeding shall be made by personal service by a person authorized by the Federal Rules of Civil Procedure; except, if the respondent cannot be found within the district or has departed therefrom, service may be made by registered or certified mail at his or her address as it is shown in the registration statement filed with his or her admission papers, or other last known address.

(b) Service of any other papers or notices required by these Rules shall be made in accordance with the Federal Rules of Civil Procedure.

Rule 14. Subpoena Power - Witnesses.

(a) Any person designated by the Court or the Disciplinary Committee to investigate any matter under these Rules may administer oaths and affirmations.

(b) The Chief Judge, any member of the Judicial Panel, and any member of the Disciplinary Committee may issue subpoenas to compel the attendance of the respondent attorney or of a witness, or the production of books or documents at the taking of a deposition or at a hearing. Subpoenas shall be served in the same manner as in civil cases under the Federal Rules of Civil Procedure.

(c) A respondent may compel by subpoena the attendance of witnesses and the production of books or documents at a hearing or deposition.

(d) There shall be no discovery proceedings except upon order of the Court.

Rule 15. Attorneys Convicted of Crimes.

(a) Upon the filing with the Chief Judge of a certificate of a Clerk of Court demonstrating that an attorney has been convicted (certificate of conviction) of a crime which is, or if it had been committed in the district would have been, a felony or which involves dishonesty or false statement, pending final disposition of the disciplinary procedure to be commenced upon such conviction, the Chief Judge shall enter an order immediately restraining the attorney from engaging in the practice of law. This shall be done whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial or otherwise, regardless of the pendency of an appeal. Upon good cause shown, the Chief Judge may set aside such order restraining the attorney from engaging in the practice of law when it appears to be in the interests of justice to do so.

(b) Final conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against him or her based upon the conviction. For the purpose of this Rule, a judgment of conviction is deemed final when the availability of appeal has been exhausted.

(c) Upon the receipt of a certificate of conviction described in (a), above, even if the attorney is not restrained from the practice of law, the Chief Judge shall institute a hearing as provided in Rule 10 in which the sole issue to be determined shall be the extent of the discipline to be imposed, if any, provided the proceedings so instituted shall not be brought to hearing until the judgment of conviction is final, unless the respondent

so requests.

(d) Immediately upon the filing with the Chief Judge or Judicial Panel of a certificate demonstrating that the underlying conviction for a crime has been reversed, any order entered under provisions of (a), above, restraining the attorney from the practice of law shall be vacated, any formal proceeding then pending against the attorney founded solely upon such conviction shall be terminated, and any discipline imposed in such formal proceeding shall be vacated. But, the reversal of conviction shall not terminate or affect any formal proceeding previously or thereafter instituted founded upon alleged misconduct by the attorney, whether or not involving the same general facts and whether or not involving the same facts alleged to constitute a crime or offense for which the attorney was convicted.

Rule 16. Reciprocal Discipline.

(a) All attorneys subject to the provisions of these Rules shall, upon being notified of contemplated or pending professional disciplinary action in another jurisdiction, promptly inform the Chief Judge of such action and provide the Chief Judge with a true copy of any disciplinary letter, notice, order, or other paper received by the attorney.

(b) When discipline in another jurisdiction has been imposed, an attorney subject to the provisions of these Rules shall, upon receipt of a true copy of an order or other official notification indicating that he or she has been subjected to discipline in another jurisdiction, provide the Chief Judge a copy of said order. Upon receipt thereof the Chief Judge shall forthwith issue a notice directed to the attorney containing:

(1) A copy of said order or other official notification from the other jurisdiction; and

(2) An order directing that the attorney inform the Chief Judge within thirty (30) days from service of the notice of any claim by the attorney that the imposition of the identical discipline in this Court would be unwarranted and the reasons therefor.

(c) Upon the expiration of thirty (30) days from the service of notice issued pursuant to provision (b), above, the Chief Judge shall impose the identical discipline, unless the attorney requests a hearing to show cause why identical discipline should not be imposed. After the hearing the Court shall impose the same discipline unless it clearly appears in the record upon which the discipline is predicated (1) that the procedure was so lacking in notice or opportunity to be heard as to constitute deprivation of due process; or, (2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court should not, consistent with its duties, accept as final the conclusion on that subject; or, (3) that the misconduct established warrants substantially different discipline in this Court. Where the Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

(d) In all other respects a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purpose of a disciplinary proceeding in this Court.

Rule 17. Disbarred or Suspended Attorney.

(a) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters, including litigation or administrative proceedings, of his or her disbarment or suspension and his or her consequent inability to act as an attorney after the effective date of disbarment or suspension. The attorney shall also advise the clients to seek legal assistance elsewhere. With regard to pending litigation or administrative proceedings the notice to be given to the client shall advise the client of the desirability of prompt substitution of another attorney in his or her place. Notice shall be given also to the attorney or attorneys for any adverse party and shall state the place of residence of the client of the disbarred or suspended attorney.

In the event the client does not obtain subsequent counsel before the effective date of the disbarment or suspension, it shall be the responsibility of the disbarred or suspended attorney to move, in the court or agency in which the proceeding is pending, for leave to withdraw as attorney of record.

(c) Orders imposing suspension or disbarment shall be effective thirty (30) days after entry. The disbarred or suspended attorney, after entry of the disbarment or suspension order, shall not accept any new retainer or engage as the attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order to its effective date, the attorney may complete on behalf of any client all matters which were pending on the entry date.

(d) Within ten (10) days after the effective date of the disbarment or suspension

order, the disbarred or suspended attorney shall file with this Court an affidavit showing: (1) that he or she has complied with the provisions of the order and with these Rules; (2) that he or she has notified all other commonwealth, state, territorial, and federal jurisdictions to which he or she is admitted to practice of the disciplinary action. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to him or her.

(e) The Chief Judge shall cause a notice of the suspension or disbarment to be published in a newspaper of general circulation in the district.

(f) The Chief Judge shall promptly transmit a certified copy of the order of suspension or disbarment to all judges within the district and the administrative agencies therein and shall make such further orders as are deemed necessary to fully protect the rights of the clients of the suspended or disbarred attorney.

(g) A disbarred or suspended attorney shall keep and maintain records of the various steps he or she has taken under these Rules so that, upon any subsequent proceedings instituted by or against the attorney, proof of compliance with these Rules and with disbarment or suspension order will be available. Proof of compliance with these Rules shall be a condition precedent to any petition for reinstatement.

Rule 18. Reinstatement.

(a) No suspended or disbarred attorney may resume practice until reinstated by order of this Court.

(b) Any person who has been disbarred after hearing or by consent may not

apply for reinstatement until the expiration of at least two (2) years from the effective date of disbarment. Any attorney suspended from practice may not apply for reinstatement until the expiration of at least one-half of the period of suspension.

(c) Petitions for reinstatement by a disbarred or suspended attorney shall be filed with the Chief Judge. Upon receipt of the petition the Chief Judge shall set the matter for hearing. At such hearing the petitioner shall have the burden of demonstrating that he or she is qualified to practice law in the district and is worthy of the Court's trust and confidence. At the conclusion of the hearing the Court shall enter an appropriate order within a reasonable time.

(d) Necessary expenses incurred in the investigation and processing of a petition for reinstatement shall be paid by the petitioner.

Rule 19. Cumulative Violations.

An attorney disciplined after the effective date of these Rules may be subject to suspension from the practice of law if he or she has a record of:

(a) three or more censures and/or reprimands; or

(b) any combination of a suspension or disbarment, plus one or more censures or reprimands.