

**United States
District Court of Guam**

**FILING A CIVIL CASE ON YOUR
OWN BEHALF**

**U.S. District Court of Guam
4th Floor, U.S. Courthouse,
520 West Soledad Avenue
Hagatna, Guam 96910
www.gud.uscourts.gov**

**November 25, 2002
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**UNITED STATES
DISTRICT COURT OF GUAM**

I. INTRODUCTION

This manual is intended to assist an individual wishing to file a civil action on his/her own behalf “Pro Se” in the United States District Court of Guam. The Federal Rules of Civil Procedure (Fed. R. Civ. P.) and the Local Rules of Practice for the District Court of Guam control how civil cases must be filed and processed.

These guidelines CANNOT take the place of an attorney’s legal advice. They are by no means comprehensive and are only intended to assist you in understanding the basic terms and procedures required by the Court.

Please be aware that the Clerk’s Office staff are prohibited from giving legal advice pursuant to 28 U.S.C. § 955. This includes:

- offering interpretations of rules;
- recommending a course of action;
- predicting a decision a judicial officer might make on any given matter; and
- interpreting the meaning or effect of any court order or judgment.

This summary is intended only as a general guide. It does not take the place of the Federal Rules of Civil Procedure (Fed. R. Civ. P.) and the Local Rules of Practice for the District Court of Guam. It does not relieve a Pro Se litigant of the responsibility of complying with this Court’s Local Rules of Practice, the Federal Rules of Civil Procedure, or any other obligations imposed by the law.

All pleadings must be delivered or mailed to the Clerk’s Office, U. S. District Court of Guam, 4th Floor, U. S. Courthouse, 520 West Soledad Avenue, Hagatna, Guam 96910. No filings should be delivered directly to chambers unless so directed by the Court. You should always keep a copy for your records of any document filed with the Court.

Once a case has been filed, it is very important for the plaintiff to be diligent in pursuing the case; to make the case ready for trial; to complete discovery within the time required and according to procedures; to respond to all motions; to appear for all conferences and hearings; and to obey all orders of the Court. Failure to do so is grounds for dismissal. (*See Attachment “A” - Local Rule GR 2.1; and “Attachment “B” - Fed. R. Civ. P. 41(b).*)

II. TERMINOLOGY

The following is a list of some legal terms and their definitions.

PRO SE You appear **Pro Se** when you represent yourself in a legal action without the aid of counsel.

IN FORMA PAUPERIS To proceed without prepayment of costs or fees for filing and serving a complaint.

PLAINTIFF The person who files the case.

DEFENDANT The party that is being sued.

COUNSEL One who has been admitted as an attorney at law to assist his/her client with advice, and pleads for him/her in open court.

PLEADING A paper filed with the Court; specifically, the complaint, answer, or cross-complaint.

ALLEGATION A statement or claim made by the plaintiff against the defendant.

COMPLAINT The document that a plaintiff files with the Court to initiate a lawsuit. It contains a clear statement of the important information about the claim(s) of the plaintiff and identifies each defendant. (*See Attachment "C" - Fed. R. Civ. P. 8(a); and Attachment "D" - Sample Form of Complaint*) This is the document which starts a civil action.

SUMMONS This is a formal command of the Court, directed to the defendant, which informs the defendant that an action has been filed against him/her and an answer is required. (*See Attachment "E" - Fed. R. Civ. P. 4.; and Attachment "F" - Summons form*)

SERVICE OF PROCESS The required notification by personal delivery, mail, or publication of pleadings (such as complaints and motions) to a person that is involved in the action or proceedings. You are responsible for making service of process on each defendant. (*See Attachment "E" - Fed. R. Civ. P. 4.*)

WAIVER OF SERVICE OF SUMMONS Pursuant to Rule 4 of the Federal Rules of Civil Procedure, service of summons can be waived by the defendant. The "Waiver of Service" form, with its companion form "Notice of Lawsuit and Request for Waiver

of Service of Summons,” can be mailed by First-Class Mail to each defendant by the plaintiff to request the defendant to save costs by not requiring service of process. **The “Notice” and “Waiver” forms are not to be used for service in actions against Federal, State, or Local Governments or Agencies.** (See Attachment “G” - Notice; and Attachment “H” - Waiver of Service of Summons.)

- ANSWER** The document filed by the defendant in response to the complaint.
- MOTION** A request made to the Court for the purpose of obtaining a ruling or order directing an act to be performed in favor of the applicant or movant. The Court may either hold a hearing on the motion requiring the parties to appear **OR** the Judge may decide the motion without a hearing. (See Attachment “I” - Local Rule LR 7.1(d) & (e).)
- ORDER** A document issued by the Judge that usually directs the plaintiff or the defendant to do something. An order may also be issued to grant or deny a motion.
- JUDGMENT** The official and authentic decision of a Court adjudicating with finality the respective rights and claims of the parties to a law suit.
- JURISDICTION** The power or legal authority of the Court to hear and decide a case.
- LODGED** Documents “lodged” with the Court are documents received by the Clerk of Court for safekeeping until a decision is rendered by the Judge as to whether the document shall be filed.
- CLERK OF COURT** An officer appointed by the Court to work with the Chief Judge in overseeing the Court’s administration.
- DOCKET NUMBER** The number assigned to a case by the Court when a new complaint is filed. The number includes the “CV” designation of a civil case, followed by the last two digits of the calendar year in which the case is filed, and the number of the case in the order filed during the calendar year. (Example: CV-02-00024)

III. FILING YOUR CASE: INITIAL PLEADINGS

When filing a complaint you must submit:

1. The original complaint plus copies for the following:
 - one copy for each named defendant,
 - one copy for the Court, and
 - one copy for filing that will be returned to you.*(See Attachment "D" - Sample of Complaint.)*

2. An original summons plus copies for the following:
 - one copy for each named defendant,
 - one copy for the Court, and
 - one copy that will be returned to you.*(See Attachment "F" - Summons form), and*

3. (a) A \$350.00 filing fee. This payment may be made by cash, check, or money order and must be made payable to "Clerk, District Court of Guam" or "District Court of Guam."
(Please do not mail cash payments.)

OR

- (b) An original and one copy of a motion (request) to proceed in forma pauperis (IFP) with supporting information regarding your financial status, and an original and one copy of a proposed order granting leave to proceed in forma pauperis for the Judge's signature. Copies of these forms are included in this packet. *(See Attachment "J" - Application to Proceed Without Prepayment of Fees and Affidavit; and Attachment "K" - Order to Proceed Without Prepayment of Fees.)*
NOTE: The term "**in forma pauperis**" refers to one's inability to pay fees for filing and serving a complaint.

It is very important that you provide your name, address and telephone number on all pleadings in the event it is necessary for court personnel to obtain further information or clarification.

When you file an application to proceed in forma pauperis (IFP), the original complaint will be filed and assigned the next consecutive civil case number. A copy of each of the documents, including the complaint, will be forwarded to the Judge. After reviewing the documents, the Judge will determine whether you will be allowed to proceed in forma pauperis. Once a decision has been made, you will receive a copy of the order by mail. If IFP is granted by the Judge, you will receive a U. S. Marshals Form 285, Waiver of Service of Summons (AO 399), Notice of Lawsuit and Request for Waiver of Service of Summons (AO 398), and the Summons.

Each of these forms needs to be completed and returned to the Clerk's Office. (Note: Each summons must include information on how long a defendant has to answer your complaint. The response time for a U. S. Government defendant is 60 days and the response time for all other defendants is 20 days. To serve the United States or one of its agencies, you must prepare a summons for the U. S. Attorney in our district, the U.S. Attorney General in Washington, D.C., and the governmental agency involved. (*See Attachment "E" - Fed. R. Civ. P. 4(i)(1).*) The clerk will issue the summons and forward the documents to the U. S. Marshals' Office for service pursuant to the Federal Rules of Civil Procedure. If IFP is denied, you will be required to pay the filing fee of \$350.00, otherwise, the case will be dismissed.

When you pay the \$350.00 filing fee, the complaint and all other documents submitted to the Court will be filed and assigned the next consecutive civil case number. One copy of each of the documents filed will be forwarded to the Judge. If you have submitted summonses, they will be issued by the clerk's office and returned to you. (Note: Each summons must include information on how long a defendant has to answer your complaint. The response time for a U.S. Government defendant is 60 days, and the response time for all other defendants is 20 days. To serve the United States or one of its agencies, you must prepare a summons for the U. S. Attorney in our district, the U.S. Attorney General in Washington, D.C., and the governmental agency involved. (*See Attachment "E" - Fed. R. Civ. P. 4(i)(1).*) You are responsible for serving the summons and complaint upon the defendant(s) in accordance with Rule 4 of the Federal Rules of Civil Procedure. You may choose to serve the defendant(s) by waiver of service, as described in Rule 4 of the Federal Rules of Civil Procedure. (*See Attachment "E" - Fed. R. Civ. P. 4(c) & (d).*) **Note:** The "Return of Service" section on the second page of the Original Summons, must be completed by the person who serves the summons and complaint. This Original Summons must then be filed with the Court.

IV. OTHER DOCUMENTS

General Information

Whenever you file a document with the Court you must always serve a copy on each of the parties and indicate at the end of the document, or by a separate certificate of service, that you have done so. (*See Attachment "L" - Fed. R. Civ. P. 5.*)

All documents filed with the Court must indicate the correct civil action number. The case number format will be provided to you by the Court at the time the action is filed.

Sign all documents you file with the Court. Place the words "Pro Se" after your name.
Place your address and telephone number on all documents.

If you change your address or telephone number, it is your responsibility to notify the Court in writing so that you will receive copies of orders and other papers mailed to you.

Format of Documents

All documents shall be submitted for filing on 8 ½ x 11 inch white paper. (*See Attachment “M” - Local Rule GR 5.1.*)

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, each pleading must be signed by at least one attorney of record or the pro se litigant. (*See Attachment “N” - Fed. R. Civ. P. 11.*)

A name, address and telephone number are required on all pleadings. All pleadings and papers must be presented according to the requirements set forth in Local Rule GR 5.1. (*See Attachment “M” - Local Rule GR 5.1.*)

Copies of Documents

The Court requires the filing of an original and one copy. If you want to receive a filed stamped copy, you must provide an additional copy of the document. A self-addressed, stamped envelope is required if you file your document by mail and want to receive a filed stamped copy.

Motions

Motions are scheduled on Fridays at 9:30 a.m., unless the Court orders otherwise. If Friday is a legal holiday, the preceding Thursday will be that week’s motion day.

Oral argument on a motion occurs only when an “Agreement of Hearing Date” is filed with the Court. If the parties do not agree on a date for oral argument, the requesting party may submit the “Agreement of Hearing Date” to the Court with a notation that the non-requesting party does not agree, in which event the Court will either determine the hearing date or determine that no oral argument will be scheduled and the motion will proceed to briefing and disposition under Local Rule LR 7.1(d)(2). (*See Attachment “I” - Local Rule LR 7.1 (d) & (e); and Attachment “O” - Format re: Agreement of Hearing Date.*)

Orders

An order is issued by the Judge and usually directs the plaintiff or the defendant to do something. An order may also be issued to grant or deny a motion.

Subpoenas

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, pro se litigants cannot issue their own civil subpoenas for trial, deposition, or entry onto premises. (*See Attachment "P" - Fed. R. Civ. P. 45.*) This applies to the issuance of "foreign subpoenas" (that is, subpoenas in other district courts) as well. **The court must issue civil subpoenas for pro se litigants.** Before any deposition subpoenas are issued by the Clerk's Office, the notice of deposition and proof of service of that notice must be on file. The civil subpoena form is available in the Clerk's Office and is the only form which can be used under the Federal Rules. (*See Attachment "Q" - Subpoena in a Civil Case.*)

V. FEES

Statutory Regulations

The Judicial Conference of the United States, pursuant to Title 28, U.S.C. § 1914(b) and 1930, adopted a schedule of fees for filings in the United States Courts. (*See Attachment "R" - Schedule of Court Fees.*) All checks and/or money orders shall be made payable to the Clerk, U.S. District Court.

Advance Payment Required

Fees are due at the time of filing. If no filing fee or application for in forma pauperis (IFP) status is received with the filing of a complaint and summons, the complaint will not be filed and the summons will not be issued until the fee requirement is met. (See page 4, Section III, 3(a) and (b), herein.)

Note: The granting of an in forma pauperis (IFP) application only means that you do not need to pay the filing fee and service fees. Payment of copy fees or search fees is required at the time the request is made.

VI. OPERATION OF THE CLERK'S OFFICE

The District Court Clerk's Office is open for business between the hours of 8:00 a.m. and 3:00 p.m., except for Saturdays, Sundays and legal holidays. Kindly contact the Clerk's Office at 473-9100 for instructions regarding emergency filings.

Court's Address

U.S. District Court of Guam
4th Floor, U.S. Courthouse
520 West Soledad Avenue
Hagatna, Guam 96910

Where to Obtain our Local Rules

The Local Rules of Practice for the District Court of Guam may be obtained from the internet website at www.gud.uscourts.gov or upon request from the Clerk's Office. A fee of \$7.50 is required for a printed copy of the Local Rules.

Local Rules of Practice

GR 2.1 Sanctions and Penalties for Noncompliance.

(a) **Violation of Rule.** The violation of or failure to conform to any of these Local Rules, the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, the Admiralty Rules, and the Bankruptcy Rules shall subject the offending party or counsel to such penalties, including monetary sanctions and/or the imposition of costs and attorneys's fees to opposing counsel, as the Court may deem appropriate under the circumstances.

(b) **Failure to Appear or Prepare.** Failure of counsel for any party to take any of the following steps may be deemed an abandonment or failure to prosecute or defend diligently by the defaulting party:

- (1) Complete the necessary preparation for pretrial;
- (2) Appear at the scheduling conference or pretrial conference;
- (3) Be prepared for trial on the date set; or
- (4) Appear at any hearing where service of notice of the hearing has been given or waived.

Judgment may be entered against the defaulting party either with respect to a specific issue or on the entire case.

Federal Rules of Civil Procedure

Rule 41. Dismissal of Actions

(b) Involuntary Dismissal: Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

Federal Rules of Civil Procedure

Rule 8. General Rules of Pleading

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

1 Your Name
2 Address
3 City, State, Zip
4 Telephone Number

5
6
7
8 DISTRICT COURT OF GUAM
9 TERRITORY OF GUAM

10
11 Your Name,) (CASE NUMBER WILL BE
12 Plaintiff,) ASSIGNED AT TIME OF FILING)
13 vs.)
14) COMPLAINT
15 Defendant.)
16 _____)

17 **Jurisdiction**
18 (Separate Paragraph)

19
20 **Complaint**
(Separate Paragraphs(s))
21 COMPLAINT MUST COMPLY WITH RULE 8(a)
(See Attachment "C")

22
23 **Demand**
24 (Separate Paragraphs)

25 Dated: _____
26 (YOUR SIGNATURE IN INK)
27 Your name typed or printed
Address
28 Telephone Number

Attachment "D"

Federal Rules of Civil Procedure

Rule 4. Summons

(a) Form. The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) Issuance. Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) Service with Complaint; by Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subdivision (m) and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by a United States marshal, deputy United States marshal, or other person or officer specially appointed by the court for that purpose. Such an appointment must be made when the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916.

(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subdivision (e), (f), or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subdivision (h);

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84, of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, or 60 days from that date if the defendant is addressed outside any judicial district of the United States; and

(G) shall provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent, or 90 days after that date if the defendant was addressed outside any judicial district of the United States.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in paragraph (3), as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under paragraph (2) for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subdivision (e), (f), or (h), together with the costs, including a reasonable attorney's fee, of any motion required to collect the costs of service.

(e) Service Upon Individuals Within a Judicial District of the United States. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any judicial district of the United States:

(1) pursuant to the law of the state in which the district court is located, or in which service is effected, for the service of a summons upon the defendant in an action brought in the courts of general jurisdiction of the State; or

(2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(f) Service Upon Individuals in a Foreign Country. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the individual personally of a copy of the summons and the complaint; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

(g) Service Upon Infants and Incompetent Person. Service upon an infant or an incompetent person in a judicial district of the United States shall be effected in the manner prescribed by the law of the state in which the service is made for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state. Service upon an infant or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (f) or by such means as the court may direct.

(h) Service Upon Corporations and Associations. Unless otherwise provided by federal law, service upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected:

(1) in a judicial district of the United States in the manner prescribed for individuals by subdivision (e)(1), or by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant, or

(2) in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (f) except personal delivery as provided in paragraph (2)(C)(i) thereof.

(i) Serving the United States, Its Agencies, Corporations, Officers, or Employees.

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

(2) (A) Service on an agency or corporation of the United States, or an officer or employee of the United States sued only in an official capacity, is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by also sending a copy of the summons and complaint by registered or certified mail to the officer, employee, agency, or corporation.

(B) Service on an officer or employee of the United States sued in an individual capacity for acts or omissions occurring in connection with the performance of duties on behalf of the United States - whether or not the officer or employee is sued also in an official capacity - is effected by serving the United States in the manner prescribed by Rule 4(i)(1) and by serving the officer or employee in the manner prescribed by Rule 4 (e), (f), or (g).

(3) The court shall allow a reasonable time to serve process under Rule 4(i) for the purpose of curing the failure to serve:

(A) all persons required to be served in an action governed by Rule 4(i)(2)(A), if the plaintiff has served either the United States attorney or the Attorney General of the United States, or

(B) the United States in an action governed by Rule 4(i)(2)(B), if the plaintiff has served an officer or employee of the United States sued in an individual capacity.

(j) Service Upon Foreign, State, or Local Governments.

(1) Service upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

(2) Service upon a state, municipal corporation, or other governmental organization subject to suit, shall be effected by delivering a copy of the summons and of the complaint to its chief executive officer or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

(k) Territorial Limits of Effective Service.

(1) Service of a summons or filing a waiver of service is effective to establish jurisdiction over the person of a defendant

(A) who could be subjected to the jurisdiction of a court of general jurisdiction in the state in which the district court is located, or

(B) who is a party joined under Rule 14 or Rule 19 and is served at a place within a judicial district of the United States and not more than 100 miles from the place from which the summons issues, or

(C) who is subject to the federal interpleader jurisdiction under 28 U.S.C. § 1335, or

(D) when authorized by a statute of the United States.

(2) If the exercise of jurisdiction is consistent with the Constitution and laws of the United States, serving a summons or filing a waiver of service is also effective, with respect to claims arising under federal law, to establish personal jurisdiction over the person of any defendant who is not subject to the jurisdiction of the courts of general jurisdiction of any state.

(l) Proof of Service. If service is not waived, the person effecting service shall make proof thereof to the court. If service is made by a person other than a United States marshal or deputy United States marshal, the person shall make affidavit thereof. Proof of service in a place not within any judicial district of the United States shall, if effected under paragraph (1) of subdivision (f), be made pursuant to the applicable treaty or convention, and shall, if effected under paragraph (2) or (3) thereof, include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

(m) Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

(n) Seizure of Property; Service of Summons not Feasible.

(1) If a statute of the United States so provides, the court may assert jurisdiction over property. Notice to claimants of the property shall then be sent in the manner provided by the statute or by service of a summons under this rule.

(2) Upon a showing that personal jurisdiction over a defendant cannot, in the district where the action is brought, be obtained with reasonable efforts by service of summons in any manner authorized by this rule, the court may assert jurisdiction over any of the defendant's assets found within the district by seizing the assets under the circumstances and in the manner provided by the law of the state in which the district court is located.

UNITED STATES DISTRICT COURT

District of _____

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

TO: (Name and address of Defendant)

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within _____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(By) DEPUTY CLERK

**NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS**

TO: (A) _____

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ District of _____ and has been assigned docket number _____.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, _____ day of _____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

- A—Name of individual defendant (or name of officer or agent of corporate defendant)
- B—Title, or other relationship of individual to corporate defendant
- C—Name of corporate defendant, if any
- D—District
- E—Docket number of action
- F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

WAIVER OF SERVICE OF SUMMONS

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of _____,
(CAPTION OF ACTION)

which is case number _____ in the United States District Court
(DOCKET NUMBER)

for the _____ District of _____.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days
after _____,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

(DATE) (SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Local Rules of Practice

LR 7.1 Motion Practice

(d) Opposition and Reply.

(1) Motions Set For Oral Argument:

(A) If a motion is set for oral argument, the opposing party shall, not less than fourteen (14) days preceding the noticed date of oral argument, serve upon all parties and file with the clerk:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits permitted by the Federal Rules of Civil Procedure.

(B) The moving party may, not more than seven (7) calendar days preceding the noticed date of oral argument, serve and file a reply to the opposing party's opposition.

(2) Motions Not Set For Oral Argument:

(A) If a motion is not set for oral argument, the opposing party shall have fourteen (14) days from the date of the filing of the Motion to serve and file an Opposition, consisting of:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits required by the Federal Rules of Civil Procedure.

(B) The moving party may, not less than seven (7) calendar days after service of the opposition, serve and file a reply to the opposing party's opposition.

(e) Oral Argument.

(1) Oral Argument Not Automatic. Oral argument must be requested by the parties, and may be denied in the discretion of the judge, except where oral argument is required by statute or the Federal Rules of Civil Procedure.

(2) Request For Oral Argument; Agreement of Oral Argument Date. If either party requests oral argument, they must file an "**Agreement of Hearing Date,**" in a form shown below in **Attachment "LR 7.1A."** It shall be the responsibility of the requesting party to contact the attorney for each party who has entered an appearance, or

if the party(ies) are pro se, it is the requesting party's responsibility to contact the pro se party and propose a date for oral argument. Once the parties have agreed on a date for oral argument, the moving party shall clear the date with the clerk. When the date has been cleared with the clerk, that date shall be inserted in the "Agreement of Hearing Date." If the parties do not agree on a date for oral argument, the requesting party may submit the "Agreement of Hearing Date" to the Court with a notation that the non-requesting party does not agree, in which event the Court shall either determine the hearing date or determine that no oral argument shall be scheduled and the motion shall proceed to briefing and disposition under Local Rule 7.1(d)(2), in the Court's discretion.

(3) Court's Cancellation of Oral Argument. In cases where the parties have requested oral argument, such oral argument may be taken off calendar by Order of the Court, in the discretion of the Court, and a decision rendered on the basis of the written materials on file.

(4) Oral Argument Taken Off Calendar by the Court. In cases where the Court cancels oral argument, as referred to in subsection (3) above, the Opposition is due to be served on the opposing party(ies) and filed with the Court fourteen (14) days prior to the originally scheduled date of oral argument, and the reply shall be served and filed seven (7) calendar days prior to the originally scheduled day of oral argument.

UNITED STATES DISTRICT COURT

District of

Plaintiff

V.

Defendant

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

CASE NUMBER:

I, _____ declare that I am the (check appropriate box)

[] petitioner/plaintiff/movant [] other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? [] Yes [] No (If "No," go to Part 2)

If "Yes," state the place of your incarceration _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? [] Yes [] No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

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

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

4. Do you have **any** cash or checking or savings accounts? Yes No

If "Yes," state the total amount. _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? Yes No

If "Yes," describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I declare under penalty of perjury that the above information is true and correct.

Date

Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

UNITED STATES DISTRICT COURT

District of

Plaintiff

V.

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CASE NUMBER:

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

GRANTED.

The clerk is directed to file the complaint.

IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

DENIED, for the following reasons:

Two horizontal lines for providing reasons for denial.

ENTER this _____ day of _____, _____.

Signature of Judge

Name and Title of Judge

Federal Rules of Civil Procedure

Rule 5. Serving and Filing Pleadings and Other Papers

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) Making Service.

(1) Service under Rules 5(a) and 77(d) on a party represented by an attorney is made on the attorney unless the court orders service on the party.

(2) Service under Rule 5(a) is made by:

(A) Delivering a copy to the person served by:

(i) handing it to the person;

(ii) leaving it at the person's office with a clerk or other person in charge, or if no one is in charge leaving it in a conspicuous place in the office; or

(iii) if the person has no office or the office is closed, leaving it at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

(B) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing.

(C) If the person served has no known address, leaving a copy with the clerk of the court.

(D) Delivering a copy by any other means, including electronic means, consented to in writing by the person served. Service by electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. If authorized by local rule, a party may make service under this subparagraph (D) through the court's transmission facilities.

(3) Service by electronic means under Rule 5(b)(2)(D) is not effective if the party making service learns that the attempted service did not reach the person to be served.

(c) **Same: Numerous Defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) **Filing; Certificate of Service.** All papers after the complaint required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service, but disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: (i) depositions, (ii) interrogatories, (iii) requests for documents or to permit entry upon land, and (iv) requests for admission.

(e) **Filing with the Court Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. A court may by local rule permit papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules. The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rules or practices.

Local Rules of Practice

GR 5.1 Format and Filing.

(a) **Form; Copy.** All papers presented for filing shall be on white opaque paper of good quality, eight and one-half inches by eleven inches (8 ½ x 11) in size, and shall be flat, unfolded (except where necessary for the presentation of exhibits), without back or cover and shall comply with all other applicable provisions of these Rules. All pages shall be numbered consecutively at the bottom and firmly bound at the upper left-hand corner. In addition to the original, a legible conformed copy of all documents, except certificates of service, summons, subpoenas and notices of depositions, shall be filed for the judge's use. Matter shall be presented by typewriting, printing, or other clearly legible reproduction process, and shall appear on one side of each sheet only. Facsimile reproductions are not acceptable. All papers shall be double-spaced except for the identification of counsel, title of the case, footnotes, quotations, and exhibits. No facsimile filings shall be accepted as the original for filing unless the party seeking to file by facsimile has secured the permission of the Court to file by facsimile by motion to the Court.

(b) **Format.** The title of the Court shall be centered and commence not less than three inches from the top of the page.

(c) **Title Page.** The first page of every document shall contain the following information which may be single spaced:

(1) The name, address and telephone number of the attorney appearing for a party in an action or individual appearing pro se and for whom the attorney appears shall be printed or typewritten in the upper left-hand corner. The space to the right of the page's center shall be reserved for the clerk's filing stamp.

(2) Below and to the left of the title of the Court, the title of the action or proceeding shall be inserted. In a complaint, the title of the proceeding shall contain the names of all parties and in the event that the parties are too numerous for all to be named on the first page, the names of the parties may be carried onto successive page(s). In all papers other than a complaint, the title of the proceeding may be appropriately abbreviated.

(3) In the space to the right of the title of the action, the following shall appear:

(A) the file number of the action or proceeding;

(B) a designation of the action or proceeding as civil, criminal, bankruptcy, or adversary;

(C) a brief description of the nature of the document; and

(D) mention of any notice of motion or affidavits or memorandum in support.

(4) **Cover Sheets.** All documents initiating civil, criminal and adversary proceedings shall be accompanied by the appropriate cover sheet, which shall be fully completed and executed. Cover sheets are available upon request at the Clerk's Office. Persons in the custody of state or federal institutions and pro se litigants are exempt from the requirements of this subdivision.

(d) **Typed Names Below Signature Lines.** Names shall be typed below signatures on all pleadings and documents filed.

(e) **Court Automation Requirements.** The Court may issue guidelines on requirements for papers and pleadings as may be necessary to comply with court automation systems.

(f) **Electronic Filing.** The Court will accept for filing documents submitted, signed, verified or served by electronic means that comply with administrative procedures established by the Court.

Federal Rules of Civil Procedure

Rule 11. Signing of Pleadings, Motions, and Other Papers; Representations to Court; Sanctions

(a) Signature. Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) Representations to Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,--

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions. If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) How Initiated.

(A) By Motion. A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5, but shall not be filed with or presented to the court unless, within 21 days after service

of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) On Court's Initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

(2) Nature of Sanction; Limitations. A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2).

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3) Order. When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

(d) Inapplicability to Discovery. Subdivisions (a) through (c) of this rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 26 through 37.

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

(TITLE OF CASE)

Civil Case No. _____

AGREEMENT OF HEARING DATE

Pursuant to Local Rule 7.1, the parties hereby acknowledge the following:

1. I, _____, am the attorney for the _____ in this matter. I contacted the attorney(s) for the opposing party(ies) in this action, or if the opposing party(ies) is/are pro se, I contacted the pro se party(ies), to agree upon a date for oral argument of my Motion _____.

2. The attorney(s) for the opposing party(ies) [or the pro se parties] is/are:

3. We agreed upon the following date: _____.

4. I called the Deputy Clerk of Court to ensure that the Court is available on the above date.

OR

I request oral argument and the party(ies) opposing the motion will not agree to an oral argument date.

DATED: _____

Attorney For Party Requesting
Oral Argument

Attachment "O"

Federal Rules of Civil Procedure

Rule 45. Subpoena

(a) Form; Issuance.

(1) Every subpoena shall

(A) state the name of the court from which it is issued; and

(B) state the title of the action, the name of the court in which it is pending, and its civil action number; and

(C) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) set forth the text of subdivisions (c) and (d) of this rule.

A command to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately.

(2) A subpoena must issue as follows:

(A) for attendance at a trial or hearing, from the court for the district where the trial or hearing is to be held;

(B) for attendance at a deposition, from the court for the district where the deposition is to be taken, stating the method for recording the testimony; and

(C) for the production and inspection, if separate from a subpoena commanding a person's attendance, from the court for the district where the production or inspection is to be made.

(3) The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of

(A) a court in which the attorney is authorized to practice; or

(B) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

(b) Service.

(1) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered. Prior notice of any commanded production of documents and things or inspection of premises before trial shall be served on each party in the manner prescribed by Rule 5(b).

(2) Subject to the provisions of clause (ii) of subparagraph (c)(3)(A) of this rule, a subpoena may be served at any place within the district of the court by which it is issued, or at any place without the district that is within 100 miles of the place of the deposition, hearing, trial, production, or inspection specified in the subpoena or at any place within the state where a state statute or rule of court permits service of a subpoena issued by a state court of general jurisdiction sitting in the place of the deposition, hearing, trial, production, or inspection specified in the subpoena. When a statute of the United States provides therefor, the court upon proper application and cause shown may authorize the service of a subpoena at any other place. A subpoena directed to a witness in a foreign country who is a national or resident of the United States shall issue under the circumstances and in the manner and be served as provided in Title 28, U.S.C. § 1783.

(3) Proof of service when necessary shall be made by filing with the clerk of the court by which the subpoena is issued a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service.

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) **(A)** On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a non-party to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

**Issued by the
UNITED STATES DISTRICT COURT**

DISTRICT OF _____

SUBPOENA IN A CIVIL CASE

V.

Case Number:¹

TO:

- YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

- YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

- YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

DISTRICT COURT OF GUAM
SCHEDULE OF COURT FEES
(Effective April 9, 2006)

Issued in accordance with Title 28 U.S.C. § 1914 and § 1930

All checks must have pre-printed name, address, telephone number and be made payable to "Clerk, District Court of Guam" or "District Court of Guam." Please do not send cash through the mail.

New Civil Cases , except Habeas Corpus/Certiorari		\$350.00
Writ of Habeas Corpus/Certiorari (ordinarily under § 2254 from Superior Court and filed as a civil proceeding. No fee for § 2255, motion should be filed in the federal criminal case and a civil case should be opened for statistical purposes only)		\$5.00
Tax Cases		\$60.00
Notice of Appeal to the 9th Circuit		\$455.00
Notice of Cross Appeal		\$455.00
Notice of Appeal of a Bankruptcy Proceeding to the District Court		\$255.00
Notice of Cross Appeal of a Bankruptcy Proceeding to the District Court		\$255.00
Appeal to District Judge from a judgment of conviction by a Magistrate Judge in a misdemeanor case		\$32.00
New Bankruptcy Petitions:	Chapter 7 (Voluntary and Involuntary)	\$299.00
	Chapter 9	\$1,039.00
	Chapter 11	\$1,039.00
	Chapter 12	\$239.00
	Chapter 13	\$274.00
	Chapter 15	\$1,039.00
Bankruptcy Case Reopenings:	Chapter 7	\$220.00
	Chapter 9	\$1,000.00
	Chapter 11	\$1,000.00
	Chapter 12	\$200.00
	Chapter 13	\$150.00
	Chapter 15	\$1,000.00
Bankruptcy Case Conversions:	Motion/Notice for Conversion to Chapter 7 from Chapters 9, 11, 12, 13	\$15.00
	Chapter 7 to Chapter 11	\$755.00
	Chapter 13 to Chapter 11	\$765.00
	Chapter 7 to Chapter 13	None

Splitting Bankruptcy Cases:	Chapter 7	\$220.00
	Chapter 11	\$1,000.00
	Chapter 12	\$200.00
	Chapter 13	\$150.00
Bankruptcy Adversary Complaints (no fee if USA, Debtor, or child support Creditor is Plaintiff)		\$250.00
For Each Amendment to Debtor's Schedules of Creditors, Lists of Creditors, Matrix, or Mailing Lists (no fee to change address of a creditor or an attorney for a creditor listed on schedules or to add the name and address of an attorney for a listed creditor)		\$26.00
Bankruptcy Motions: <ul style="list-style-type: none"> • Motion to Terminate, Annul, Modify, or Condition Automatic Stay • Motion to Compel Abandonment of Property of the Estate • Motion to Withdraw the Reference of a Case or Proceeding ("no fee" for relief from co-debtor stay, stipulation for court approval of an agreement for relief from stay, or if child support Creditor is the Plaintiff and files the form required by § 304(g) of Bankruptcy Act.)		\$150.00
Miscellaneous Filing (Registering Judgments from another District, foreign subpoenas, etc.)		\$39.00
Copies , per page (including federal agencies if electronic access is available)		\$0.50
For each name/item Searched , including certificate (including federal agencies if electronic access is available)		\$26.00
Reproduction of recordings of proceedings - regardless of medium, including costs of materials (fee applies to federal agencies if the reproduction of the recording is available electronically)		\$26.00
Copy of Microfiche/Microfilm		\$5.00
Retrieval of Records from storage located outside of Court		\$45.00
Returned Check , non-sufficient funds		\$45.00
Usage of Electronic Access to Court Data, Per Minute of usage via dial up service (including federal agencies)		\$0.60
Usage of Electronic Access to Court Data, Per Page for public users obtaining information through a federal judiciary Internet site (total for any document, docket sheet, or case-specific report, excluding transcripts, not to exceed \$2.40, the fee for 30 pages)		\$0.08 NTE \$2.40
Copies per page, from Public Access Terminal at Court		\$0.10
"Original" Attorney Admission (full, temporary)		\$200.00
Attorney Admission - Pro Hac Vice		\$100.00
Copy of Certificate of Attorney Admission or Certification of Good Standing		\$15.00
Certification		\$9.00
Exemplification		\$18.00
For Filing (new case) an action brought under Title III of the Cuban Liberty and Democratic Solidarity Act of 1996 - This fee is in addition to the filing fee for a new civil action other than a writ of habeas corpus		\$5,431.00
Local Rules (printed copy)		\$7.50