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UNITED STATES COURTS FOR THE NINTH CIRCUIT

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TO: Chief Judge Frances Marie Tydingco-Gatewood, District of Guam
Jeanne Quinata, Clerk of Court, Eastern District of Guam

FROM: Robert E. Rucker, Ph.D., Assistant Circuit Executive

DATE: June 16, 2015

RE: District of Guam's Amended Jury Plan

This is to notify you that the District of Guam's amended Jury Plan was approved by the Judicial Council of the Ninth Circuit on June 15, 2015.

In accordance with 28 U.S.C. § 1863(a) please send a copy of your plan to the Administrative Office and the Attorney General of the United States.

cc: Edward J. Juel, Attorney Advisor, Court Programs Division, AO

**Jury Plan
For the
District Court of Guam**



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Plan for Random Jury Selection

Pursuant to the provisions of the Jury Selection and Service Act of 1968 (Public Law 90-274), as amended and codified in 28 U.S.C. § 1861 et seq., the following revised plan is hereby adopted by this Court, to take effect after approval by the Reviewing Panel prescribed by 28 U.S.C. § 1863(a). The prior plan for random jury selection is superseded as of the effective date of this revised plan.

1. Declaration of Policy

It is the policy of this Court that all litigants in this Court entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in this district. It is further the policy of this Court that all U.S. Citizens residing in the district shall have the opportunity to be considered for service on grand and petit juries, and shall have an obligation to serve as jurors when summoned for that purpose.

2. Discrimination Prohibited

No U.S. Citizen shall be excluded from service as a grand or petit juror on account of race, color, religion, sex, national origin, or economic status.

3. Definitions

Whenever used in this Plan:

“Chief Judge” shall mean the Chief Judge of the District Court of Guam or, in his/her absence, the Magistrate Judge or any other designated district judge for the District Court of

Guam;

“Clerk” and “Clerk of the Court” shall mean the Clerk of the District Court of Guam, any authorized deputy clerk, or any other person authorized by the Court to assist the Clerk in the performance of functions under this Plan.

The Voter Registration List referred to throughout this Plan shall mean the official Voter Registration List (VRL) for the most recent territorial general election as maintained by the Guam Election Commission either manually or on automatic data processing equipment.

4. Management and Supervision of Jury Selection Process

The Clerk of the Court shall manage this Plan under the supervision and control of the Chief Judge as defined herein.

The Court finds that electronic data processing methods can be advantageously used for managing this Plan. Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may, at the Clerk’s option after consultation with the Chief Judge, be used to randomly select Master Jury Wheel names, randomly select names of persons in the Master Jury Wheel to be sent questionnaires, randomly select names of persons in the Qualified Jury Wheel to be summoned, randomly select names of persons from the pool of jurors to serve as a panel, randomly select names of persons from the panel of jurors to serve as a jury, and to perform other clerical and record-keeping functions.

In the event of an emergency, computer malfunction, or any overt or obvious automation

deviation from this Plan, the Clerk, with the approval of the Chief Judge, shall manually, or by alternative electronic methods, proceed from the last step correctly implemented.

All random selections referred to throughout this Plan shall be in accordance with Section 6 of this Plan.

5. Jury Selection Source List

The Court finds, pursuant to 28 U.S.C. § 1863(b) (2), that the VRL represents a fair cross section of the community in the District of Guam. Accordingly, the names of grand and petit jurors serving in this Court shall be selected by randomized procedures from the VRL.

6. Method and Manner for the Random Selection of Jurors

The selection of names from the VRL in electronic media for the master jury wheel shall be accomplished by a purely randomized process through a properly programmed electronic data processing system. A properly programmed electronic data processing system for pure randomized selection shall be used to select names from the Master Jury Wheel for the purpose of summoning persons to serve as grand or petit jurors.

Such random selections of names from the source list for inclusion in the Master Jury Wheel or from the Master Jury Wheel for summoning persons to serve must ensure: (a) that names chosen will represent all segments of the source list from which drawn, (b) that the mathematical odds of any single name being picked are substantially equal, (c) that the possibility of human discretion or choice affecting the selection of any individual's name is eliminated, and (d) that each village voting precinct within the District of Guam is substantially proportionally

represented in the Master Jury Wheel in accordance with 28 U.S.C. § 1863(b)(3). This randomized selection procedure is applicable to all drawings.

After the jurors have been summoned, the Clerk has the option, after consultation with the Chief Judge, to randomly select jurors manually for grand jury panels and for petit juries for specific cases by preserving the computer prepared random sequence of the names of jurors summoned and assigning jurors to panels in the order listed; or preserving the computer prepared random sequence of the names of jurors impaneled and assigning jurors to petit juries in the order listed; or drawing names at random from a box, jury wheel, or similar container containing the names of the present pool or panel of jurors.

7. Master Jury Wheel

The Clerk shall maintain the Master Jury Wheel for the district. The names and addresses of all persons randomly selected from the VRL shall be placed in the Master Jury Wheel. The Master Jury Wheel list shall not be disclosed except on order of the Court or pursuant to 28 U.S.C. §§ 1867 and 1868.

Pursuant to Section 1863(b)(4), the minimum number of names to be placed in the Master Jury Wheel shall be at least one-half ($\frac{1}{2}$) of one percent (1%) of the total number of names on the VRL. The Chief Judge may order additional names to be placed in the Master Jury Wheel from time to time as necessary.

The Master Jury Wheel shall be emptied and initially refilled, as herein provided, once every two (2) years, between January 1 and July 1. When the Master Jury Wheel is emptied, the existing Qualified Jury Wheel will continue to be used until the Clerk determines that an

adequate number of persons from the new Master Jury Wheel have been qualified. At that time, the old Qualified Jury Wheel will be emptied and a new Qualified Jury Wheel created. Jurors from previous Qualified Jury Wheels may serve at the same time with jurors selected from later Qualified Jury Wheels.

8. Drawing Of Names from the Master Jury Wheel

The Clerk, at periodic intervals, shall draw at random from the Master Jury Wheel the names of as many persons as may be required to maintain an adequate number of names in the Qualified Jury Wheel. The Clerk shall post a general notice for public review in the Clerk's office and on the Court's website explaining the process by which names are periodically and randomly drawn. The number of names to be drawn shall be determined by the Clerk based upon anticipated juror demands by the Court plus a margin of extra names sufficient to compensate for the estimated number that will be unavailable or ineligible.

The Clerk shall have prepared, by manual or computer means, an alphabetical list of the names drawn. This list shall not be exhibited to any person except as provided herein and in 28 U.S.C. §§ 1867 and 1868, unless the Court shall otherwise direct. The Clerk shall, by manual or computer means, prepare and have mailed to every person whose name is so drawn a juror qualification questionnaire accompanied by instructions to fill out and return the form, duly signed and sworn, to the Clerk by mail or online via the internet within ten (10) days. The juror qualification questionnaire form, prescribed by the Administrative Office of the United States and approved by the Judicial Conference of the United States, shall be used to obtain the information necessary to determine whether a person is qualified for, disqualified, exempt or

excused from jury service and shall be made solely on the information furnished on the juror qualification form and other competent evidence. After the completed juror qualification forms are returned by prospective jurors, the form will be reviewed by jury staff under the supervision of the Court pursuant to 28 U.S.C. § 1865(a).

Upon review by the jury staff, such determination shall be entered in the space provided on the juror qualification questionnaire or appropriate database listing. The jury staff shall maintain a manual of procedures to be followed in its review of the juror qualification forms.

If a person is unable to fill out the juror qualification questionnaire, another person shall prepare it for him/her, and the preparer shall indicate that he/she has done so and the reason therefore. In any case in which it appears that there is an omission, ambiguity, or error in a questionnaire, the Clerk shall send out a “*Summons to Appear to Complete Juror Qualification Form*” notice to the person to make such additions or corrections as may be necessary. The notice gives instructions for a date and time for the person to appear at the Clerk’s Office to fill out all appropriate boxes on the juror qualification questionnaire.

Any person who fails to return a completed juror qualification questionnaire as instructed may be summoned by the Clerk to fill out a juror qualification questionnaire in the Clerk’s presence, at which time, if warranted, the person may be questioned, but only with regard to his/her responses to questions on the form. No juror fees or costs for this appearance shall be paid, unless otherwise ordered by the Court.

The remaining sections of 28 U.S.C. § 1864 in regard to the penalties provided for therein in relation to any person failing to appear and any person who willfully misrepresents a material

fact on a juror qualification questionnaire, are by reference made a part hereof as though the same were set forth at length herein.

9. Determination of Qualifications, Excuses, and Exemptions

The Chief Judge, on his/her initiative or upon recommendation of the Clerk, or the Clerk of the Court, under the supervision of the Court, shall determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is disqualified, exempt, or to be excused from jury service. The Clerk shall enter such determination in the space provided on both the juror qualification questionnaire and the alphabetical list of names drawn from the Master Jury Wheel. If a person does not appear in response to a summons, such fact shall be noted on said list.

9.1 Qualification for Jury Service

Any person shall be deemed qualified to serve on grand and petit juries in this district pursuant to 28 U.S.C. § 1865 unless the person:

- (1) is not a citizen of the United States, is less than eighteen (18) years old, or has not resided for a period of one year within this district;
- (2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to satisfactorily fill out the juror qualification questionnaire;
- (3) is unable to speak the English language;
- (4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service;

or

- (5) has a charge pending against him or her for the commission of, or has been convicted in a State, Federal, Territorial, or Commonwealth Court of record of, a crime punishable by imprisonment for more than one (1) year and his or her civil rights have not been restored.

9.2 Automatic Exemption from Jury Service

The Court finds, pursuant to 28 U.S.C. § 1863(b) (6), that it is in the public interest and would not be inconsistent with 28 U.S.C. § 1861 or 1862, to bar the following groups of persons and occupational classes from jury service on the grounds that they are exempt:

- (1) members in active service in the Armed Forces of the United States;
- (2) members of the fire or police departments of any state, district, territory, commonwealth, possession, or subdivision thereof; and
- (3) public officers in the executive, legislative, or judicial branches of the Government of the United States, or any state, district, or territory, possession, or subdivision thereof, who are actively engaged in the performance of official duties, and who are elected to public office or directly appointed by one elected to public office.

9.3 Excuses on Individual Request

The Court finds that jury service by members of the following occupational classes or groups of people would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members would not be inconsistent with 28 U.S.C. §§ 1861 and 1862, and shall

be granted upon individual written request to those:

- (1) persons over 70 years of age;
- (2) persons who have served as a grand or petit juror in a State, Federal, Territorial, or Commonwealth Court within the last two (2) years;
- (3) persons who serve as “volunteer safety personnel.” The term “volunteer safety personnel” means persons serving a “public agency” [as defined in 42 U.S.C. § 3796b(8)] in an official capacity, without compensation, as firefighters or members of a rescue squad ambulance crew;
- (4) persons making a showing of facts otherwise constituting undue hardship or extreme inconvenience if required to serve. Such persons may be excused for such period as the Chief Judge, Judge, or Clerk of Court, under the supervision of the Court, deem necessary, at the conclusion of which such persons shall be summoned again for jury service in accordance with 28 U.S.C. § 1866(c).

10. Qualified Jury Wheel

The Clerk or Jury Administrator shall maintain a Qualified Jury Wheel for the district, and shall place in such wheel the names of all persons randomly drawn from the Master Jury Wheel who are determined to be qualified to serve as jurors and are not exempt or excused from such service.

10.1 Summoning of Jurors

From time to time, the Clerk or Jury Administrator, as directed by an Order of the Court, may

draw at random from the Qualified Jury Wheel such number of names of persons as may be required for grand or petit jury service in the District.

The Clerk or Jury Administrator shall issue and send by first class mail summonses to the persons whose names are so drawn in accordance with 28 U.S.C. § 1866(b).

The Clerk shall prepare an alphabetical list of the names of the persons so drawn and summoned to appear. Jurors summoned may be excused upon written request to the Chief Judge or Clerk of Court, who are authorized to grant requests for temporary excuse on the grounds of undue hardship or extreme inconvenience. The Chief Judge or Clerk of Court shall approve or disapprove such request subject to 28 U.S.C. § 1869(j).

Any person summoned for jury service who fails to appear as directed may be ordered by the Court to appear forthwith and show cause for his/her failure to comply with the summons. Any person who fails to show good cause for noncompliance to a summons may be fined not more than \$1,000, imprisoned not more than three (3) days, ordered to perform community service, or any combination thereof.

If a juror who has been assigned to a case and sworn or affirmed fails to appear at any session of Court at the time fixed by the Court, he or she shall be ordered by the Court to appear forthwith and show cause why he or she did not appear. If that juror fails to show good cause and is adjudged in contempt of court, in addition to any sentence imposed by the Court, he/she shall not be paid juror's fees for the time served on the case to which that juror has been assigned.

10.2 Petit Jury Panels

Persons whose names are selected pursuant to this Section shall be called to appear as prospective jurors for a jury trial in the district for a period not to exceed the length of said trial or a period of thirty (30) days, whichever is longer, unless extended by order of the Chief Judge. If a current petit jury pool or panel for the district contains more persons than reasonably needed for the selection of a jury in a specific case, the Clerk shall select at random the names of the number of persons he/she and the Chief Judge determine should be called.

This Petit Jury Panel list shall be disclosed to the parties three (3) working days prior to the date of trial, unless otherwise directed by the Chief Judge or the judge assigned to try the case. Only after obtaining leave of Court may the parties disclose this list to individuals or entities not directly related to the trial. The Court may order such list to be kept confidential in any case where the interests of justice so require.

The names of prospective and sitting petit jurors shall not be disclosed to the public or media outside open court, except upon order of the Court. A request for disclosure of petit juror names to the media or public must be made in writing to the Chief Judge or the judge presiding over the trial.

10.3 Grand Jury Panels

The names of twenty-three (23) grand jurors plus six (6) alternates will be selected for service on the grand jury panel. Each grand juror shall serve a period of twelve (12) months unless discharged by the Chief Judge. The period of service of a grand jury can be extended up to six (6) additional months, upon order of the Judge who selected that grand jury and that such

extension is in the public interest, in accordance with Rule 6(g) of the Federal Rules of Criminal Procedure.

A Special Grand Jury as defined in 18 U.S.C. § 3331, shall serve for a term of eighteen (18) months unless an order for its discharge or an extension of its term is entered by the Court in accordance with 18 U.S.C § 3331.

The Grand Jury Panel list shall not be disclosed except as may be directed by the Chief Judge.

11. Temporary Excuses and Exclusions

Pursuant to 28 U.S.C. § 1866(c), any person summoned for jury service may be excused by the Chief Judge or the Clerk, under supervision of the Court, upon a showing of “undue hardship or extreme inconvenience” as defined in 18 U.S.C. § 1869(j). The Chief Judge, or the Clerk, under the supervision of the Court, may excuse a person summoned for a jury trial. The Clerk may excuse a person summoned for grand jury service.

A request to be excused from jury service shall be made in writing from a juror prior to the date summoned, except in emergency situations, and the Court will only grant such a request upon a showing of undue hardship or extreme inconvenience for such period as the Court deems necessary. Upon expiration of a deferred excuse, such person shall be summoned again for jury service under 28 U.S.C. § 1866(c). A juror who does not make a written request in advance to be excused, and who reports for jury service and requests immediate release will not be paid for his/her service unless he/she can prove that circumstances warranted his/her trip to the

courthouse.

Except as provided elsewhere in this Plan, no person or class of persons shall be disqualified, excluded, excused, or exempted from service as jurors; provided, that any person summoned for jury service may be:

- a. excluded by the Court on the ground that such person may be unable to render impartial jury service or that his/her service as a juror would be likely to disrupt the proceedings;
- b. excluded upon peremptory challenge as provided by law;
- c. excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or
- d. excluded upon determination of the Court, after hearing in open court, that his/her service as a juror would likely threaten the secrecy of the proceedings or otherwise adversely affect the integrity of jury deliberations, and that exclusion of such person would not be inconsistent with the policy stated in 28 U.S.C. §§ 1861 and 1862.

Whenever a person is disqualified, excused, exempted, or excluded from jury service, the Jury Administrator will note the reasons for the disqualification or excuse on a record card and/or on the questionnaire. These records shall be maintained as prescribed by law or regulation.

12. Term of Service

In any two (2) year period, no person shall be required to (1) serve or attend court for

prospective jury service as a petit juror for a total of more than thirty (30) days, except when necessary to complete jury service in a particular case, or (2) serve on more than one grand jury, or (3) serve as both a grand and petit juror.

13. Protection of Jurors' Employment

No employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee over such employee's jury service, or the attendance or scheduled attendance in connection with such jury service. Any employer who violates the provision of this section shall be subject to penalties specified by 28 U.S.C. § 1875.

14. Maintenance, Inspection and Disclosure of Records

After the Master Jury Wheel is emptied and refilled pursuant to Section 7 of this Plan, and after all persons selected to serve as jurors before it was emptied have completed such service, all records and papers compiled and maintained by the Clerk before it was emptied shall be preserved in the custody of the Clerk for four (4) years and shall be available for public inspection for the purpose of determining the validity of the selection of any jury. Such records may then be destroyed, providing the means used insures the privacy of the contents of the records.

When a demand is made on the Clerk pursuant to 28 U.S.C. §§ 1867(d) and (f) or 1868 for an inspection or permission to reproduce and copy the contents of records or papers used in connection with the jury selection process, the Clerk shall refer such a request to the Chief Judge.

Notice of persons who identify themselves as non-citizens through the juror qualification

process will be provided to appropriate election officials for verifying voter registration eligibility.

15. Modifications

Modifications to this Plan may be made from time to time by this Court, upon the approval of the Ninth Circuit Reviewing Panel of the Judicial Council and shall be made when so directed by the Reviewing Panel.

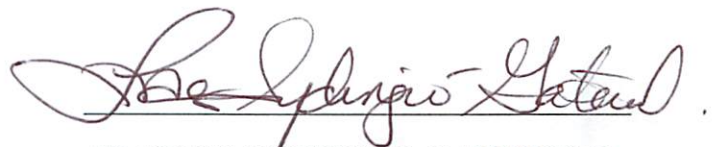
16. Filing Copies of the Plan

Copies of the plan as initially adopted and of future modifications shall be filed with the Judicial Council of the Ninth Circuit, the Administrative Office of the United States Courts and the Attorney General of the United States.

17. EFFECTIVE DATE

This Plan shall become effective upon approval by the Reviewing Panel of the Judicial Council of the Ninth Circuit Court of Appeals, or at such time thereafter as the reviewing Panel shall direct.

DATED this 2nd day of June, 2015.



FRANCES TYDINGCO-GATEWOOD

Chief Judge, District Court of Guam