



**ANNUAL REPORT
OF THE
OFFICE OF REGULATION COUNSEL
AUGUST 1, 2021 – DECEMBER 31, 2022**

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Regulation Counsel**

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**SUPREME COURT ADOPTS NEW LAWYER DISCIPLINARY RULES AND ESTABLISHES
COMPREHENSIVE LAWYER REGULATORY SYSTEM FOR GUAM**

Historically, the judiciary has long been responsible for the admission of applicants to the practice of law and the regulation of lawyers after they have been admitted to the bar. Currently, in each jurisdiction, the court of highest appellate jurisdiction has the inherent and/or constitutional authority to regulate the practice of law, including Guam.

The Supreme Court of Guam (“Court”) adopted the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* (“*GRLDEDP*”) in March 2021, which became effective on August 1, 2021. The *GRLDEDP* replace the former *Bar of Guam Ethics Committee Rules of Procedure for Disciplinary Proceedings* and the Guam Bar Ethics Committee system. These new rules now govern the disciplinary and disability proceedings against members of the Bar of Guam and all attorneys within the Court’s jurisdiction. Matters still pending before the former Guam Bar Ethics Committee and the Office of the Ethics Prosecutor were transferred to the newly established Comprehensive Lawyer Regulatory System, which includes the following components: the Commission on Lawyer Regulation, the Office of Regulation Counsel, the Investigative Committee, and the Hearing Panel.

The *GRLDEDP* call for public members in addition to lawyer members, to serve on the Commission on Lawyer Regulation, the Investigative Committee, and the Hearing Panel. The inclusion of public members is consistent with national practice.

The *GRLDEDP* are modeled on the *ABA Model Rules for Lawyer Disciplinary Enforcement* (2007 edition) which were adopted by the ABA in August 1993 and amended in 1995, 1996, 1999, and 2002. They identify best policies and procedures drawn from the collective experience of the nation’s disciplinary agencies. The intent of the *GRLDEDP* is to enhance the lawyer disciplinary system’s transparency, effectiveness, efficiency, and fairness to the benefit of the public, Guam lawyers, and the Court.

Over the years, disciplinary systems nationwide have moved away from what was historically a prosecutorial model of lawyer discipline. The expanded system of lawyer regulation adopted as a matter of national practice contemplates an expanded role for Regulation Counsel who is responsible for investigating and prosecuting allegations of lawyer misconduct. This expanded role of Regulation Counsel includes the ability to take remedial actions, such as through the Alternatives to Discipline Program, or referring complainants to other appropriate component entities in the regulatory system.

Further, on a national level, alcoholism, substance abuse, gambling disorders, depression, and other mental health issues impact the legal profession at higher rates than the general population and some other professions. These issues not only negatively affect and can cause harm to clients and the justice

system, but they impact lawyers' families and those with whom they practice law. The organized bar and the profession nationwide have long recognized the need for resources, strategies, and support for lawyers, judges, and law students.

The Court and the Guam Bar recognize that substance abuse, mental health, and other disorders exist in Guam's legal profession, and that creation of a *Lawyer Assistance Program* consistent with national practice is critical. The *GRLDEDP* create and implement a *Lawyer Assistance Program* as part of the Alternatives to Discipline Program to be operated by the Guam Bar Association. The Alternatives to Discipline Program applies to lawyers involved in "lesser misconduct" and referrals may be made by Regulation Counsel before the filing of formal charges. The Alternatives to Discipline Program may include fee arbitration, arbitration, mediation, law office management assistance, lawyer assistance programs, psychological counseling, continuing legal education programs, ethics school, or any other program authorized by the Court.

References

Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings, Promulgation Order No. 21-001-01 (Mar. 16, 2021).

Guam Report on the Lawyer Discipline System (American Bar Association Standing Committee on Professional Regulation (June 2019)).

COMPREHENSIVE LAWYER REGULATORY SYSTEM COMPONENTS

Commission on Lawyer Regulation

Rule 2 of the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* (“*GRLDEDP*”) establishes the Commission on Lawyer Regulation (“Commission”). The Commission oversees the administrative processes of the Comprehensive Lawyer Regulatory System components, which includes the Office of Regulation Counsel, the Investigative Committee, and the Hearing Panel, without substantive involvement in any particular matters concerning lawyer misconduct or disability.

The Commission is appointed by the Supreme Court of Guam (“Court”) and consists of three (3) active members of the Bar of Guam in good standing and two (2) public members, who serve for fixed, staggered terms. The Commission members were appointed by the Court in March 2021. *See* Order, ADC21-002 (Mar. 29, 2021).

The Lawyer Members are:

John Weisenberger - Chairperson
Guam Bar Member since July 1, 1977
Retired from active practice

Sirena Perez Cassidy - Vice-Chairperson
Guam Bar Member since November 11, 2000
Attorney, Civile & Tang, PLCC

John Patrick Morrison
Guam Bar Member since May 1, 2008
Deputy Director, Public Defender Services Corporation

The Public Members are:

Artemio “Ricky” Hernandez, Ph.D. - Treasurer
Deputy Executive Manager, A. B. Won Pat International Airport Authority
Certified Government Financial Officer; Certified Public Procurement Officer

Margarita D. Perez Leon Guerrero - Secretary
Treasurer, Perez Properties, Inc.
Entrepreneur and Business Woman

The Commission’s powers and duties include but are not limited to:

- Reviewing the functioning of the Comprehensive Lawyer Regulatory System and submitting reports to the Court which may provide for proposed amendments to the *GRLDEDP*, the *Guam Rules of Professional Conduct*, and other Court rules;
- Informing the public of the existence and operation of the lawyer discipline system and how the public may make a complaint against a lawyer;

- Developing and implementing training programs and materials, with the assistance of Regulation Counsel, for all lawyer discipline system volunteers and Regulation Counsel;
- Responsible for access to and dissemination of public disciplinary information, including informing the disciplinary enforcement agency of every jurisdiction in which a lawyer is admitted and the National Lawyer Regulatory Data Bank maintained by the ABA, and publication on the GBA website and in a newspaper of general circulation in Guam;
- Coordinating with Regulation Counsel on the preparation and publication of an annual report; and
- Preparing an annual budget for the Comprehensive Lawyer Regulatory System and its components for submission to the Court.

The Commission members are volunteers and do not receive compensation for their services but may be reimbursed for expenses incidental to the performance of their duties.

Office of Regulation Counsel

Rule 5 of the Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings (“GRLDEDP”) provides that the Supreme Court of Guam (“Court”) shall appoint a lawyer admitted to practice law in Guam to serve as Regulation Counsel.

As part of the transition with the *GRLDEDP* and Comprehensive Lawyer Regulatory System, Attorney Alicia Limtiaco became the newly and first-appointed Regulation Counsel. Attorney Limtiaco took office on September 13, 2021.

Regulation Counsel’s powers and duties include but are not limited to:

- Receiving information and complaints regarding the conduct of lawyers over whom the Court has jurisdiction;
- Evaluating all information to determine whether it concerns a lawyer subject to the jurisdiction of the Court because it relates to misconduct by the lawyer or the incapacity of the lawyer;
- Determining whether the facts stated in a complaint or other information regarding the conduct of a lawyer provide grounds for further action by any committee designated by the Court under *Rule 1* of the *GRLDEDP* or any other component of the Judiciary of Guam, and/or any outside agency or body;
- Investigating and prosecuting complaints as authorized by the Investigative Committee and the Hearing Panel;
- Coordinating and communicating with other jurisdictions in which a lawyer is admitted regarding discipline and disability matters;
- Collaborating with the Commission on Lawyer Regulation on developing and implementing training programs and materials for all lawyer discipline system volunteers as well as public awareness and education outreach to the community at large regarding the Comprehensive Lawyer Regulatory System; and
- Coordinating with the Commission on Lawyer Regulation on the preparation and publication of an annual report.

Investigative Committee

Rule 3 of the Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings (“GRLDEDP”) establishes the Investigative Committee charged with overseeing the substantive investigative component of the Comprehensive Lawyer Regulatory System.

The Investigative Committee is appointed by the Supreme Court of Guam (“Court”) and consists of five (5) active members of the bar of Guam in good standing and two (2) public members, who serve for fixed, staggered terms. The Investigative Committee members were appointed by the Court in July 2021 and September 2021. *See* Order, ADC21-003 (Jul. 26, 2021) and Amended Order, ADC21-003 (Sept. 1, 2021).

The Lawyer Members are:

Rodney J. Jacob - Chairperson
Guam Bar Member since May 20, 1996
Partner, Calvo, Fisher & Jacob, LLP

Jeffrey Alan Cook - Vice-Chairperson
Guam Bar Member since May 1, 1981
Partner, Cunliffe and Cook

Cynthia V. Ecube
Guam Bar Member since December 26, 1991
Sole Practitioner, Law Office of Cynthia V. Ecube, Esq.

Joseph McDonald
Guam Bar Member since October 21, 1999
Sole Practitioner, McDonald Law Office, LLC

Dean V. A. Manglona
Guam Bar Member since March 1, 2010
Attorney, Civile & Tang, PLCC

The Lawyer Alternates are:

Michael J. Gatewood
Guam Bar Member since October 10, 2010
Sole Practitioner, Law Office of Michael J. Gatewood

Vanessa Lee Williams
Guam Bar Member since April 29, 2011
Sole Practitioner, Law Office of Vanessa L. Williams, PC

John Thomas Brown
Guam Bar Member since October 15, 1982
Vice President and General Counsel, Jones and Guerrero Co., Inc.

The Public Members are:

Selina Onedera-Salas

Accountability Auditor I, Office of Public Accountability, Government of Guam

Johnny P. Taitano

Entrepreneur and Business Owner

Veteran, United States Army

The Alternate Public Member is:

Victoria Blas-Toves

Entrepreneur and Travel Professional

The Investigative Committee's powers and duties include but are not limited to:

- Authorizing and overseeing Regulation Counsel's investigations of complaints brought by any source against lawyers under the *GRLDEDP*, including matters initially opened on the Investigative Committee's motion based on information brought to the Investigative Committee's attention from any source including reports from Regulation Counsel;
- Resolving complaints or matters which may result in the dismissal, issuance of a letter of caution or a private admonition, or prosecution of lawyer discipline matters, or the referral to an Alternatives to Discipline Program;
- Reporting and making recommendations to the Commission on Lawyer Regulation regarding the general functioning of the Comprehensive Lawyer Regulatory System, which may include proposed amendments to the *GRLDEDP*, the *Guam Rules of Professional Conduct*, or other Court rules; and
- Holding regular meetings to conduct the business of the Investigative Committee.

The Investigative Committee members are volunteers and do not receive compensation for their services but may be reimbursed for expenses incidental to the performance of their duties.

Hearing Panel

Rule 4 of the Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings ("GRLDEDP") establishes the Hearing Panel charged with overseeing the substantive adjudicative component of the Comprehensive Lawyer Regulatory System.

The Hearing Panel is appointed by the Supreme Court of Guam ("Court") and consists of five (5) lawyers who are active members of the bar of Guam in good standing and two (2) public members, who serve for fixed, staggered terms. The Hearing Panel members were appointed by the Court in July 2021 and September 2021. *See* Order, ADC21-003 (Jul. 26, 2021) and Amended Order, ADC21-003 (Sept. 1, 2021).

The Lawyer Members are:

G. Patrick Civile - Chairperson
Guam Bar Member since May 22, 1985
Managing Partner, Civile & Tang, PLLC

Jocelyn M. Roden - Vice-Chairperson
Guam Bar Member since May 20, 1994
Assistant Public Defender, Public Defender Service Corporation

Oliver Weston Bordallo
Guam Bar Member since April 29, 1983
Sole Practitioner, Law Office of Oliver W. Bordallo, Esq.

R. Marsil Johnson
Guam Bar Member since September 13, 2013
Attorney, Blair, Sterling, Johnson & Martinez

Renita Taimanao-Munoz
Guam Bar Member since October 29, 2007
Assistant Attorney General, Office of the Attorney General

The Lawyer Alternates are:

John Vincent Reyes Aguon
Guam Bar Member since May 3, 2007
In-house Counsel, NAVFAC Marianas

Rawlen M. T. Mantanona
Guam Bar Member since October 1, 1992
Partner, Cabot Mantanona, LLP

Terrence M. Brooks
Guam Bar Member since October 19, 1984
President/Partner, Brooks Concepcion Law, PC

The Public Members are:

Honorable Jessy C. Gogue
Mayor, Municipality of Chalan Pago-Ordot
Graduate, United States Naval Academy
Veteran, United States Marine Corps

Elizabeth Gayle, P.E.
Civil Engineer
Setiadi Architects, LLC

The Alternate Public Member is:

Pika Fejeran
Entrepreneur and Business Owner

The Hearing Panel's powers and duties include but are not limited to:

- Considering and deciding prehearing motions and other prehearing matters;
- Conducting hearings into formal charges of misconduct or other hearings as ordered by the Court;
and
- Submitting to the Court written findings of fact, conclusions of law, and recommendations as directed by the *GRLDEDP*.

The Hearing Panel members are volunteers and do not receive compensation for their services but may be reimbursed for expenses incidental to the performance of their duties.

CASELOAD PROCESSING INFORMATION

GENERAL OVERVIEW

The following illustration and information provide a general overview of the lawyer disciplinary process and timeline processing information. Please refer to the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* (“*GRLDEDP*”) for details regarding the disciplinary process.

Disciplinary Process Overview

Sui generis



⚖️ Disciplinary proceedings are neither civil nor criminal but are *sui generis*.

⚖️ Screening or Evaluation:

Upon receipt of information via a complaint or from other sources alleging lawyer misconduct or incapacity, and upon establishment of the Supreme Court of Guam's ("Court") jurisdiction, Regulation Counsel screens or evaluates the information. If the information, if true, would not constitute misconduct or incapacity, the matter may be referred to any of the Comprehensive Lawyer Regulatory System components, or dismissed. If the information alleges facts which, if true, would constitute misconduct or incapacity, with the approval of the Investigative Committee, Regulation Counsel will conduct an investigation. During this screening or evaluation stage, requests for information from the complainant and/or the lawyer may be made.

⚖️ Investigation:

Upon conclusion of an investigation, Regulation Counsel may recommend to the Investigative Committee:

(a) Dismissal;

(b) A private admonition, the filing of formal charges, the petitioning for transfer to disability inactive status, or a stay.

⚖️ Notice to Respondent:

Regulation Counsel will not recommend a disposition other than dismissal or stay without first notifying the respondent in writing of the substance of the matter, and will provide the lawyer with a copy of the complaint and afford the lawyer an opportunity to be heard in writing.

Regulation Counsel's recommended disposition of a matter will be reviewed by the Investigative Committee, which may approve, modify, or disapprove the recommendation or direct that Regulation Counsel investigate further.


⚖️ Alternatives to Discipline Program:

In a matter involving lesser misconduct as defined by the *GRLDEDP*, before the filing of formal charges, Regulation Counsel may refer the respondent to the Alternatives to Discipline Program. The Alternatives to Discipline Program may include fee arbitration, arbitration, mediation, law office management assistance, lawyer assistance programs, psychological counseling, continuing legal education programs, ethics school, or any other program authorized by the Court.

 Hearing:

If a matter is to be resolved by a formal proceeding, Regulation Counsel will prepare formal charges in writing, with the approval of the Investigative Committee, and shall file the charges with the chair of the Hearing Panel and cause a copy of the formal charges to be served upon the lawyer, to which the lawyer may file a written answer.

The process includes a mandatory prehearing conference. If a matter proceeds to a hearing, the hearing will be recorded. The Hearing Panel will submit its report containing its findings and recommendation on dismissal or sanction to the Court.

 Review by the Court:

The Court may, within its discretion, review a matter if the lawyer or Regulation Counsel files objections to the Hearing Panel's report or if a majority of the Court votes to review the matter. If the Court does not review the matter, the Court shall impose the sanction.

Upon conclusion of the proceedings, the Court shall promptly enter an appropriate order. If new evidence warranting a reopening of the proceeding is discovered, the case may be remanded to the Hearing Panel.

 Additional Rules of Procedure:

Except as otherwise provided in these rules, the *Guam Rules of Civil Procedure* and the *Guam Rules of Evidence* regarding civil nonjury matters shall generally apply in discipline and disability cases; however, the Hearing Panel may receive and consider any reasonably competent, cogent, and credible evidence.

 Standard of Proof:

Formal charges of misconduct, petitions for reinstatement and readmission, and petitions for transfer to and from disability inactive status shall be established by clear and convincing evidence.

 Burden of Proof:

The burden of proof in proceedings seeking discipline or transfer to disability inactive status is on Regulation Counsel. The burden of proof in proceedings seeking reinstatement, readmission, or transfer from disability inactive status is on the respondent.

Statistical Information

Caseload processing statistical information for the reporting period from August 1, 2021 to December 31, 2022, includes:

- ⚖️ Number of complaints filed or ethics complaint (“EC”) matters or cases open or pending through December 31, 2022: 51
 - ⚖️ Number of complaints filed or EC matters or cases open or pending before August 1, 2021 under the former Guam Bar Ethics Committee and the Office of the Ethics Prosecutor, which were transferred on August 1, 2021 to the newly established Comprehensive Lawyer Regulatory System including the Office of Regulation Counsel: 22
 - ⚖️ Number of new complaints filed or EC matters or cases open or pending with the Office of Regulation Counsel between August 1, 2021 to December 31, 2022: 29
- ⚖️ Number of complaints or EC matters or cases screened or evaluated: 39
- ⚖️ Number of complaints or EC matters or cases investigated: 16
- ⚖️ Number of complaints or EC matters or cases withdrawn: 1
- ⚖️ Number of complaints or EC matters or cases dismissed: 22
- ⚖️ Public disciplinary actions taken and private sanctions imposed: 3
- ⚖️ Diversionary dispositions: 0
- ⚖️ Number of attorney discipline cases (“ADC”) with orders of the Court relative to payments of restitution, costs, or fees open or pending through December 31, 2022: 4
- ⚖️ Number of attorney discipline cases (“ADC”) with orders of the Court appointing counsel under *Rule 28 of the GRLDEDP (Appointment of Counsel to Protect Clients’ Interests when Respondent is Transferred to Disability Inactive Status, Suspended, Disbarred, Disappears, or Dies)*: 3
- ⚖️ Number of petitions for resignation while in good standing filed by lawyers under *Rule 8(i)* of the *GRLDEDP*: 10
- ⚖️ Number of complaints referred to the Judicial Discipline System of the Court: 4

Further, the Office of Regulation Counsel received many inquiries from lawyers and the public regarding the lawyer disciplinary system and process, including the procedure for filing a complaint, the status and disposition of complaints, requests for lawyer disciplinary history, requests for certificates of good standing, and lawyer referral services. Inquiries and complaints regarding judges or judicial officers submitted to the Office of Regulation Counsel were referred to the Judicial Discipline System of the Court.

PROCEDURAL ISSUES AND PROPOSED AMENDMENTS TO *GRLDEDP*

Regulation Counsel discussed with the Commission on Lawyer Regulation, the Investigative Committee, and Supreme Court of Guam and Superior Court of Guam officials the issues raised in the transition from the previous Guam Bar Ethics Committee system to the Comprehensive Lawyer Regulatory System and the application of the *GRLDEDP*, including:

Disqualifications:

The issue involves identifying the applicable procedural rules and process under the *GRLDEDP* in situations regarding the disqualification of Regulation Counsel in disciplinary and disability/regulatory matters due to conflicts of interest or other good cause.

One of the recommendations to address the situation when Regulation Counsel is disqualified involves the Commission on Lawyer Regulation facilitating the request for appointment of special counsel made by the Investigative Committee chair or Hearing Panel chair, with the Supreme Court of Guam. The recommendation is consistent with an existing process authorized by *Rule 18(j)* involving disqualification of Regulation Counsel. *Rule 18(j)* refers to the situation when Regulation Counsel or a member of the Investigative Committee or the Hearing Panel is a respondent as opposed to his/her disqualification based on a conflict of interest or other good cause unrelated to any complaint or allegation of attorney misconduct.

Rule 3(f) and *Rule 4(f)* provide for the abstention and disqualification of any member of the Investigative Committee or Hearing Panel, respectively, regarding a particular matter if an actual bias exists between the member and a respondent lawyer, however, these rules do not but should also include a reference to a complainant. The disqualified member will not participate in the discussion of the particular matter and an alternate member who is disinterested and not disqualified will participate in his/her place. There is no similar rule regarding the abstention and disqualification of Regulation Counsel.

Regulation Counsel conducted research and communicated with disciplinary/regulation counsel in other jurisdictions regarding their rules, processes, and practices in these circumstances, and provided the information received to the Supreme Court of Guam, the Commission on Lawyer Regulation, and the Investigative Committee.

Access to Sealed/Confidential Court Records:

The issue involves identifying the applicable procedural rules and process under the *GRLDEDP* regarding access to Superior Court of Guam and Supreme Court of Guam public and sealed and/or confidential records by the Office of Regulation Counsel.

Regarding access to Superior Court of Guam public records, the Office of Regulation Counsel created a Confidential Research and File Retrieval Request to the Clerk of Court along with the currently existing Research and File Retrieval Request Form utilized by the Courts and Ministerial Division.

The *GRLDEDP* do not address access to sealed and/or confidential court records by the Office of Regulation Counsel. Regulation Counsel conducted research and communicated with

disciplinary/regulation counsel in other jurisdictions regarding their rules, processes, and practices in these circumstances, and provided the information received to the Supreme Court of Guam, the Commission on Lawyer Regulation, and the Investigative Committee.

Written Guidelines for Dismissal:

Under the *GRLDEDP*, upon direction from the Investigative Committee to dismiss a complaint, Regulation Counsel shall issue a notice of dismissal to the complainant which includes a copy of written guidelines for dismissal. Given that each complaint is addressed on its facts, circumstances, and evidence, i.e., on a “case-by-case” basis, and consistent with other jurisdictions wherein written guidelines for dismissal are not required under their respective lawyer disciplinary rules, it is recommended that such provision be deleted.

Dissemination of Disciplinary Information/Attorney Request for Disciplinary History:

The issue involves identifying the applicable procedural rules and process under the *GRLDEDP* regarding an attorney’s request for disclosure of his/her disciplinary history, the need to maintain confidentiality, and the attorney’s consent to release of confidential disciplinary history and execution of an authorization and release form.

A lawyer may request his/her disciplinary history, which will include any pending and closed matters, public and non-public. The Office of Regulation Counsel created an Authorization and Release form regarding requests for disciplinary history. *See* Attachment A.

Regulation Counsel has been in communication with disciplinary/regulation counsel in other jurisdictions regarding their rules, processes, and practices in these circumstances, and provided the information received to the Supreme Court of Guam, the Commission on Lawyer Regulation, and the Investigative Committee.

Certificates of Good Standing and Resignations/Reinstatements/Readmissions:

The issue involves the applicable definition of “good standing” and the related processes regarding requests by attorneys for certificates of good standing, petitions by attorneys for resignations, reinstatements, or readmissions, and requests by attorneys or third parties for disciplinary history.

When a lawyer requests a certificate of good standing with the Supreme Court of Guam, good standing is defined in *GBA Rule 2* as follows: “No persons shall be deemed a member in good standing: (a) While unregistered; (b) While suspended for non-payment of the prescribed fees as provided by *Rule 9*; (c) While suspended for disciplinary reasons; or (d) While disbarred.” The Supreme Court of Guam inquires with the Office of Regulation Counsel only as to whether there are any public charges or public cases involving a lawyer, which under the *GRLDEDP*, may not be known to the Supreme Court of Guam because formal charges are filed with the Hearing Panel.

This is distinguishable from the situation when a lawyer petitions to resign while in good standing. Under the *GRLDEDP*, the lawyer must file an affidavit attesting to the fact that the lawyer is not the subject of any “pending disciplinary investigation, proceeding, or order” in any jurisdiction, including

Guam. The existence of any “pending disciplinary investigation, proceeding, or order” includes both public and non-public charges or cases and can affect or prevent a lawyer from resigning while under good standing.

The above definitions and descriptions are important given their impact. Regulation Counsel has been in communication with disciplinary/regulation counsel in other jurisdictions regarding their rules, processes, and practices in these circumstances, and provided the information received to the Supreme Court of Guam, the Commission on Lawyer Regulation, and the Investigative Committee.

Other Court Rules:

Although not within the scope of responsibility of the Comprehensive Lawyer Regulatory System, revisions to the *Supreme Court of Guam Rules for the Discipline of Attorneys*, *Supreme Court of Guam - Guam Rules Governing Admission to the Practice of Law*, and *Guam Rules for Judicial Disciplinary Enforcement* consistent with the applicable provisions of the *GRLDEDP*, are needed. The Office of Regulation Counsel has discussed this issue with the Supreme Court of Guam and revisions are in progress.

The Office of Regulation Counsel sought clarification with the Supreme Court of Guam regarding the applicable procedural rules on motion practice relative to the *GRLDEDP*. Per the Supreme Court of Guam, the *Guam Rules of Appellate Procedure* are the applicable procedural rules including *Rule 6* on motion practice, and not the *Local Rules of the Superior Court of Guam*.

Appointment of *Rule 28* Counsel:

Under the *GRLDEDP*, the Supreme Court of Guam may appoint *Rule 28* Counsel in situations where a lawyer has been transferred to disability inactive status, or has disappeared or died, or has been suspended or disbarred and there is evidence that the lawyer has not complied with the notice requirements to clients, adverse parties, and other counsel (*Rule 27*), and no partner, executor or other responsible party capable of conducting the lawyer’s affairs is known to exist.

Given the limited guidance in the *GRLDEDP* on *Rule 28* Counsel duties and responsibilities, Regulation Counsel researched and provided recommendations regarding *Rule 28* Counsel duties and responsibilities required in other jurisdictions, to the Commission on Lawyer Regulation and the Supreme Court of Guam. These recommended *Rule 28* Counsel duties and responsibilities were also included in a motion to appoint *Rule 28* Counsel filed by Regulation Counsel in an ADC case.

Concerns About An Attorney:

In situations where a person does not wish to file a complaint but wants or requests assistance from the disciplinary agency regarding minor disputes or concerns about an attorney, a separate process has been implemented in some jurisdictions. This generally involves situations where there are communication, access to client files, and billing statement issues.

The Office of Regulation Counsel with the concurrence of the Commission on Lawyer Regulation will implement a similar process to address minor disputes and concerns about an attorney that do not rise to the level of a complaint. A Request for Assistance form will be included on the Office of Regulation Counsel website. *See Attachment B.*

TECHNOLOGY TOOLS

Case Management System

Given the lack of a technology-based caseload management system that electronically stores and tracks the progress of ethics complaint (“EC”) matters or cases, the effective use of technology to investigate and prosecute cases and track their progress through the Comprehensive Lawyer Regulatory System improves efficiency at all stages of the proceedings and optimizes resource allocation. An electronic caseload management system also will aid in the dissemination of accurate public information.

Regulation Counsel, in collaboration with the Management Information Systems (“MIS”) Division of the Judiciary of Guam, has initiated work on the development of a case management system. This will assist the Office of Regulation Counsel in reducing paper files and maintaining accurate and complete records of cases. The office will require a scanner and other equipment for this purpose. A secure location was identified and provided to Regulation Counsel to store closed files that are awaiting destruction after three (3) years or which must be permanently kept.

Regulation Counsel continues to develop and improve upon internal standard operating procedures and physical file organization and maintenance procedures as such protocols were not in place or were incomplete. Optimizing file organization and consistency in how documents and evidence are kept in the office’s physical files improves efficiency and lessens the opportunity for mistakes or inadvertent misplacing of papers or evidence.

Regulation Counsel and Ms. Loretta Perez, Judicial Systems Management Coordinator, MIS Division, continue to work on the development of a case management system for the Office of Regulation Counsel. This case management system will be integrated with the Judiciary of Guam's current JustWare system and upgrades, with the required security protocols.

Significant time and effort have been dedicated to this project, including mapping relevant provisions of the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* (“*GRLDEDP*”), reviewing and applying the *Guam Report on the Lawyer Discipline System* (American Bar Association Standing Committee on Professional Regulation (June 2019)), *Guam Rules of Professional Conduct*, and other resources, and drafting workflow processes. The next steps involve coding workflows, testing in a training environment, and purchasing licenses for the production environment.

The Office of Regulation Counsel has completed instructions provided by the MIS Division for the test environment of the case management system project. The proposed project completion timeframe is 2023.

Digitization of Closed Files

The Office of Regulation Counsel began the digitization of closed files in August 2022 with the assistance of Judiciary of Guam interns. Regulation Counsel will pursue additional assistance to complete the project, including the recruitment of university or college interns. The proposed project completion timeframe is 2023.

Office of Regulation Counsel Website

The purpose of lawyer discipline is to protect the public and the administration of justice. To accomplish these goals, the lawyer disciplinary system must be accessible to the public. To increase public awareness and education about the Comprehensive Lawyer Regulatory System, the Office of Regulation Counsel has been working with the MIS Division on the development of a stand-alone consumer-friendly website.

The website development project involves several main steps, including (1) Information Gathering (purpose, main goals, and target audience); (2) Planning (sitemap and wireframe creation); (3) Design (page layouts, review, and approval cycle); (4) Content Writing and Assembly; (5) Coding (home page, sub-pages, frameworks, CMS, mock-up, layout creation, special features, SEO); (6) Testing, Review and Launch; and (7) Maintenance.

The Office of Regulation Counsel website will provide information about the functions and membership of each component of the Comprehensive Lawyer Regulatory System, including the Commission on Lawyer Regulation, the Office of Regulation Counsel, the Investigative Committee, and the Hearing Panel. The website will also include information about the Alternatives to Discipline Program and *Lawyer Assistance Program* upon adoption and implementation of those components of the system.

The website for the Office of Regulation Counsel will include links to the *Guam Rules of Professional Conduct*, the Supreme Court of Guam's ("Court") disciplinary procedural rules, the disciplinary opinions of the Court, and any amendments to disciplinary procedural rules.

The Office of Regulation Counsel website will include the most current iteration of the downloadable "Complaint Against an Attorney" form, which has been translated by the Judiciary of Guam's Court Interpreter Registry Program ("CIRP"). See Attachment C. The form will be available in the following languages: English, CHamoru, Tagalog, Chuukese, Kosraean, Yapese, Palauan, Korean, Japanese, and Mandarin.

The "Complaint Against an Attorney" form continues to advise complainants that lawyer disciplinary investigations are confidential; however, the form was revised deleting the request that complainants respect that confidentiality as it may chill their inclination to file a complaint. The form was also revised deleting the "optional waiver", as it is unnecessary and overbroad, risks confusing complainants, and is inconsistent with national practice.

Regulation Counsel and Ms. Amber Toves, Network Specialist, MIS Division, have been working on the development of the independent website under the Office of Regulation Counsel. Significant time and effort have been dedicated to this project, including reviewing and applying relevant provisions of the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* ("*GRLDEDP*"), *Guam Report on the Lawyer Discipline System* (American Bar Association Standing Committee on Professional Regulation (June 2019)), *Guam Rules of Professional Conduct*, disciplinary/regulation counsel websites of other jurisdictions, and other resources.

Regulation Counsel and Ms. Toves coordinated with Hannah Arroyo, Clerk of Court, and Aaron Quitugua, Administrative Services Officer, Supreme Court of Guam, and the Guam Bar Association regarding the integration of GBA attorney roster information, disciplinary decisions and orders, and

other related information required to be posted on the website. Regulation Counsel drafted write-ups on the Comprehensive Lawyer Regulatory System and its components and process. Regulation Counsel and Ms. Toves continue to work on the design, layout, and content of the website with assistance from Jessica Perez-Jackson, Judicial Assistant to Chief Justice Robert Torres, Supreme Court of Guam, and Arlene Mendiola, Assistant to Regulation Counsel.

Significant progress has been made including the completion of certain tasks and milestones. Regulation Counsel and the MIS Division continue to work on the last steps of the website development project. Due to the heavy demands placed on the MIS Division on unrelated Judiciary of Guam technology projects and issues, Ms. Toves has been tasked to take on additional duties. As such, the proposed project completion timeframe and launch date of the website to the public were extended to April 2023.

TRAINING

No formal training program or training manual was known to exist for the Ethics Committee and Adjudicative Committee members under the former Guam Bar Ethics Committee system and the Office of the Ethics Prosecutor. Training was described as “on the job.”

Regular training is vital to the effective and efficient operation of the disciplinary system. Training helps to ensure consistency in, and the expeditious resolution of, disciplinary matters. Training also provides a forum for volunteers, staff, and respondents’ counsel to discuss problems and exchange information about how to enhance the effectiveness and efficiency of the process.

The professional staff and volunteers in all disciplinary agencies including those in Guam, need to be educated and equipped to address ethics matters or cases, as well as those that implicate technological advances impacting the practice of law.

Regulation Counsel attended in 2022 virtual training and meetings sponsored by the National Organization of Bar Counsel (“NOBC”), the National Council of Lawyer Disciplinary Boards (“NCLDB”), and the ABA National Conference on Professional Responsibility. Regulation Counsel has also sought information and research on relevant issues from colleagues via the NOBC Community Forum or list serve.

Regulation Counsel conducted training with the Investigative Committee, the Hearing Panel, and the Commission on Lawyer Regulation on December 7, 2021, April 15, 2022, and April 20, 2022, respectively via the Zoom platform. Regulation Counsel presented an overview of the *Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings* (“*GRLDEDP*”) and the Comprehensive Lawyer Regulatory System. Related issues were and continue to be discussed at meetings with the Commission on Lawyer Regulation, the Investigative Committee, and the Hearing Panel. These include new and additional duties and responsibilities of the Office of Regulation Counsel and other components of the Comprehensive Lawyer Regulatory System, the processes and procedures relative to lawyer discipline and disability matters within the Comprehensive Lawyer Regulatory System, and the status of matters or cases transferred from the former Guam Bar Ethics Committee system and the Office of the Ethics Prosecutor and any new matters or cases filed with the Office of Regulation Counsel. Regulation Council also identified at least four (4) online webinars from the ABA that are free for ABA members. There is likely a cost for lawyers who are not ABA members and for public members.

Additionally, the Joint Annual District Court of Guam and Biennial Pacific Judicial Council Conference was held in Guam in September 2022. On September 20, 2022, Regulation Counsel participated as a member of the "Ethics, Ethics and More Ethics" panel discussion with Circuit Judge M. Margaret McKeown, U.S. Court of Appeals for the Ninth Circuit, and Guam Bar President Jacqueline Terlaje as facilitator. Regulation Counsel provided an overview of the *GRLDEDP* and Comprehensive Lawyer Regulatory System and highlighted topics that impact attorneys directly, i.e., clarifying the good standing certificate request and the resignation while in good standing process, suggested guidance for *Rule 28* Counsel appointments regarding duties and responsibilities, and in minor disputes or concerns about an attorney where a person does not wish to file a complaint but is requesting assistance, implementing a request for assistance process and form which would most likely address

communication, access to client files, and billing statement issues. Regulation Counsel's presentation was approximately thirty (30) minutes and attorneys received one (1) hour of CLE.

Further, as part of the transition process from the former Guam Bar Ethics Committee system and Office of the Ethics Prosecutor to the new Comprehensive Lawyer Regulatory System and Office of Regulation Counsel, Regulation Counsel held two (2) meetings in October 2021 and March 2022, with Chief Justice F. Philip Carbullido, Supreme Court of Guam, and Chair John Weisenberger, Commission on Lawyer Regulation, on the status and progress of this transition.



ATTACHMENT A:
AUTHORIZATION AND RELEASE



Office of Regulation Counsel

SUPREME COURT OF GUAM

GUAM JUDICIAL CENTER, SECOND FLOOR

120 WEST O'BRIEN DRIVE, HAGÁTÑA, GUAM 96910

OFFICE: (671) 475-3167 | EMAIL: REGULATIONCOUNSEL@GUAMSUPREMECOURT.COM



AUTHORIZATION AND RELEASE

I, (print name) _____,
having been admitted to the practice of law in Guam, hereby authorize and give my
consent to the Office of Regulation Counsel, Supreme Court of Guam, to provide
information on my disciplinary history regarding complaints filed against me, pending or
closed, to _____ (hereinafter, "Requestor") at
the following address:

_____.

I hereby release, discharge, and hold harmless the Office of Regulation Counsel,
Supreme Court of Guam, its agents and representatives, the admitting authority of the
above jurisdiction, its agents and representatives, and any person so furnishing
information, from any and all liability of every nature and kind arising out of the
furnishing, inspection, and use of such information, knowledge, documents, records, or
other data.

Signature

Date



ATTACHMENT B:
REQUEST FOR ASSISTANCE

ATTACHMENT B



**Office of Regulation Counsel
Supreme Court of Guam
Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910
Office: (671) 475-3167**

Email: regulationcounsel@guamsupremecourt.com

REQUEST FOR ASSISTANCE

- Use this Request for Assistance form for help with a communication or client file issue between you and a lawyer instead of filing a Complaint Against An Attorney form. Email the completed Request for Assistance form to regulationcounsel@guamsupremecourt.com. We will try to contact the lawyer and ask the lawyer to resolve your concerns.
- We try to respond within a reasonable time. Do not wait to take any other actions related to your case. There are time deadlines for civil and criminal cases.
- We cannot give legal advice, represent you, or refer you to a lawyer.

INFORMATION ABOUT YOU

Name _____
Street Address or P.O. Box _____
City _____ State _____ Zip Code _____
Phone Number _____
Email Address _____

INFORMATION ABOUT THE LAWYER

Name _____ License Number _____
Street Address or P.O. Box _____
City _____ State _____ Zip Code _____

NATURE OF DISPUTE: <input type="checkbox"/> Communication <input type="checkbox"/> Return client file <input type="checkbox"/> Request billing statement	Is this your lawyer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Former Lawyer Have you already tried to contact this lawyer about your concerns? <input type="checkbox"/> Yes <input type="checkbox"/> No Type of legal matter: _____ (For example, civil, criminal, domestic, child custody, etc.)
--	--

I understand that this is an informal request for assistance to resolve an issue. I confirm that I am the person identified above, I did not file a complaint against this lawyer, and this form is not a complaint against the lawyer.

Date _____

Signature _____



ATTACHMENT C:
COMPLAINT AGAINST AN
ATTORNEY



Office of Regulation Counsel

SUPREME COURT OF GUAM



GUAM JUDICIAL CENTER

120 WEST O'BRIEN DRIVE, HAGÁTÑA, GUAM 96910

OFFICE: (671) 475-3167 | EMAIL: REGULATIONCOUNSEL@GUAMSUPREMECOURT.COM

COMPLAINT AGAINST AN ATTORNEY

Complete and Submit Complaint Form to:

Office of Regulation Counsel Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910
Office: (671) 475-3167
Email: regulationcounsel@guamsupremecourt.com

Today's date: _____

My name is (please print): _____

I have a complaint against (attorney's name): _____

My mailing address, including zip code, is: _____

My telephone number(s) is: _____

My email address is: _____

The type of case or legal matter from which the complaint arose is (i.e., a divorce case, a criminal case, a civil case, etc.): _____

Is the case a legal matter still pending? _____

Was the attorney your attorney or someone else's attorney? _____

If the attorney was your attorney, when did you hire him/her/them? _____

Have you paid the attorney any money? _____ If yes, when did you pay the attorney and how much did you pay him/her/them?

Date _____ Amount \$ _____ Date _____ Amount \$ _____

Date _____ Amount \$ _____ Date _____ Amount \$ _____

(Please include additional pages if more space is needed for payment information.)



Office of Regulation Counsel

SUPREME COURT OF GUAM



GUAM JUDICIAL CENTER

120 WEST O'BRIEN DRIVE, HAGÁTÑA, GUAM 96910

OFFICE: (671) 475-3167 | EMAIL:REGULATIONCOUNSEL@GUAMSUPREMECOURT.COM

STATEMENT OF ALLEGED ATTORNEY MISCONDUCT: Please write or type the factual details of your complaint on a separate paper and attach it to this completed form. Include what you believe the attorney did wrong and to the extent possible, any relevant dates, what occurred on each date, and the names and contact information of anyone who may have information about the matter. A narrative explanation of the problem as you see it, is important. Please also provide any relevant documents in your possession related to your complaint, including items such as your contract with the attorney, invoices, payment records, letters, emails, etc. **Please do not submit any original documents to us. Instead, make copies and include them with your complaint.**

CONFIDENTIALITY: Attorney discipline matters are confidential at their outset. However, attorney discipline matters may eventually become public. **Please be aware that any information you provide to our office about the matter, or that we might learn during our investigation, may later become public.** No attorney-client relationship exists between you and the Office of Regulation Counsel, and no attorney-client confidentiality applies to information you submit to us.

NOTE: The Comprehensive Lawyer Regulatory System's jurisdiction is strictly limited. It cannot stop or delay any pending court proceedings, nor prevent the running of applicable timelines or statutes of limitations, including appeals. The Comprehensive Lawyer Regulatory System including the Office of Regulation Counsel and their staff members, cannot provide you with legal advice. Our duties are limited to review and enforcement regarding attorney misconduct. We suggest you promptly seek the advice of an attorney of your choice regarding any legal questions you may have, including other possible options or rights you may have arising out of the alleged misconduct of any attorney who is the subject of your complaint.

SIGNATURE

PRINT NAME

DATE