

*Withdrawing  
not entertain  
numbering*

A HOUSE JOINT RESOLUTION

To approve the proposed "Rules of Appellate Procedure" of the Commonwealth Supreme Court; and for other purposes.

1 WHEREAS the Commonwealth Supreme Court, pursuant to  
2 Sections 3105 and 3403 of Public Law 6-25, "The Commonwealth  
3 Judicial Reorganization Act," has submitted to the Presiding  
4 Officers of the Legislature its proposed "Rules of Appellate  
5 Procedure";

6 AND WHEREAS the Legislature, pursuant to Article IV,  
7 Section 8 of the Commonwealth Constitution and 1 CMC Section  
8 3403, has the authority and obligation to approve or  
9 disapprove of proposed rules of the Commonwealth judiciary;

10 NOW THEREFORE BE IT RESOLVED that the House of  
11 Representatives of the Sixth Commonwealth Legislature hereby  
12 approves the "Rules of Appellate Procedure" as proposed by  
13 the Commonwealth Supreme Court and as submitted to the  
14 Presiding Officers of the Legislature; and

15 BE IT FURTHER RESOLVED, that the Speaker of the House  
16 and the President of the Senate shall certify, and the House  
17 and Senate Clerks shall attest, to the adoption of this  
18 resolution and the House Clerk shall thereafter transmit  
19 certified copies to the Honorable Pedro R. Guerrero,  
20 Governor of the Commonwealth, and the Honorable Jose S. Dela  
21 Cruz, Chief Justice of the Commonwealth Supreme Court.

Date: 10/2/89  
*Prefiled on 10-2-89*

Introduced by: *John A. ...*

*Withdrawn*  
*Note: Senate had instructions and approved some minor*

Third REGULAR SESSION, 1989

A HOUSE JOINT RESOLUTION

To approve the proposed "Rules of Appellate Procedure" of the Commonwealth Supreme Court; and for other purposes.

1 WHEREAS the Commonwealth Supreme Court, pursuant to  
2 Sections 3105 and 3403 of Public Law 6-25, "The Commonwealth  
3 Judicial Reorganization Act," has submitted to the Presiding  
4 Officers of the Legislature its proposed "Rules of Appellate  
5 Procedure";

6 AND WHEREAS the Legislature, pursuant to Article IV,  
7 Section 8 of the Commonwealth Constitution and 1 CMC Section  
8 3403, has the authority and obligation to approve or  
9 disapprove of proposed rules of the Commonwealth judiciary;

10 NOW THEREFORE BE IT RESOLVED that the House of  
11 Representatives of the Sixth Commonwealth Legislature hereby  
12 approves the "Rules of Appellate Procedure" as proposed by  
13 the Commonwealth Supreme Court and as submitted to the  
14 Presiding Officers of the Legislature; and

15 BE IT FURTHER RESOLVED, that the Speaker of the House  
16 and the President of the Senate shall certify, and the House  
17 and Senate Clerks shall attest, to the adoption of this  
18 resolution and the House Clerk shall thereafter transmit  
19 certified copies to the Honorable Pedro R. Guerrero,  
20 Governor of the Commonwealth, and the Honorable Jose S. Dela  
21 Cruz, Chief Justice of the Commonwealth Supreme Court.

Date: 10/2/89  
*Prefiled on 10-2-89*

Introduced by: *John W. Leonard*



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
OFFICE OF THE ATTORNEY GENERAL  
2ND FLOOR - ADMINISTRATION BLDG., CAPITOL HILL  
SAIPAN, MP 96950

ALEXANDRO C. CASTRO  
Attorney General  
Tel: (670) 322-4311/4312  
FACSIMILE: (670) 322-4320

JOHN F. BIEHL  
Deputy Attorney General  
Tel: (670) 234-7771/7111/6207  
FACSIMILE: (670) 234-7016

August 23, 1989

COPY

Mr. Pete Reyes  
Chairperson  
Board of Elections  
P. O. Box 470  
Saipan, MP 96950

Re: NOTICE OF CERTIFICATION OF INITIATIVE PETITION

Dear Mr. Reyes:

On July 27, 1989 and August 21, 1989, the Office of the Attorney General received an Initiative Petition and accompanying signatures from Bishop Tomas A Camacho, Congressman Benigno Sablan and Congressman David C. Sablan.

The Initiative Petition states that it proposes amending Amendment 42 of the CNMI Constitution.

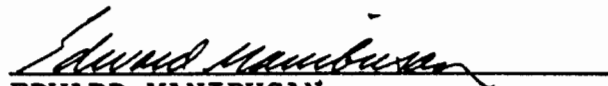
Pursuant to Article XVIII, Section 4, Subsection (a) of the CNMI Constitution, the Attorney General must certify that the Initiative Petition satisfies the requirements of this Article. I hereby certify that the Initiative Petition satisfies the requirements of Article XVIII, Section 4, Subsection (a) of the CNMI Constitution.

Accordingly, this proposed amendment should be submitted to the voters at the next regular general election scheduled to be held on Saturday, November 4, 1989.

On this date, I am also transmitting a copy of the text of the Initiative Petition and notice of the Attorney General's certification of the Initiative Petition to each house of the Legislature. The Legislature will have until September 3, 1989 to vote on the Initiative Petition.

Mr. Pete Reyes, Chairman  
Board of Elections  
August 23, 1989  
Page 2 of 2

Dated this 23rd day of August, 1989, at Saipan, Commonwealth of the  
Northern Mariana Islands.



EDWARD MANIBUSAN  
Acting Attorney General

cc: Governor Pedro P. Tenorio  
Bishop Tomas A. Camacho  
Congressman Benigno Sablan  
Congressman David C. Sablan  
Senate President Benjamin T. Manglona  
House Speaker Pedro R. Deleon Guerrero



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
OFFICE OF THE ATTORNEY GENERAL  
2ND FLOOR - ADMINISTRATION BLDG., CAPITOL HILL  
SAIPAN, MP 96950

ALEXANDRO C. CASTRO  
Attorney General  
Tel: (670) 322-4311/4312  
FACSIMILE: (670) 322-4320

JOHN F. BIEHL  
Deputy Attorney General  
Tel: (670) 234-7771/7111/6207  
FACSIMILE: (670) 234-7016

August 23, 1989

Honorable Benjamin T. Manglona  
Senate President  
Sixth Northern Mariana Islands  
Commonwealth Legislature  
Saipan, MP 96950

and

Honorable Pedro P. Deleon Guererro  
Speaker of the House  
Sixth Northern Mariana Islands  
Commonwealth Legislature  
Saipan, MP 96950

Re: INITIATIVE PETITION PROPOSING AN AMENDMENT TO THE CNMI  
CONSTITUTION

Dear Mr. President and Mr. Speaker:

I am hereby submitting to each House of the Sixth Northern Mariana Islands Commonwealth Legislature an Initiative Petition that proposes to amend the CNMI Constitution. On this date I have determined that the Initiative Petition complies with Article XVIII, Section 4, Subsection (a) of the CNMI Constitution and have certified the Initiative Petition. I am enclosing a copy of the Notice of Certification and the text of the proposed amendment.

The proposed constitutional amendment shall be submitted to the voters for ratification at the next regular general election which is scheduled to occur on November 4, 1989. Pursuant to Article XVIII, Section 4, Subsection (b) of the CNMI Constitution, if a majority of the members of each house vote in favor of the proposed amendment by September 3, 1989 (60 days prior to the next regular general election) and transmit notice of such approval to the Board of Elections by September 3, 1989, the proposed amendment shall be submitted for ratification in the same manner as an amendment proposed by legislative initiative. As further provided in Article XVIII, an amendment proposed by legislative initiative shall become effective if approved by a majority of the votes cast. An amendment proposed by popular initiative shall become effective if

RECEIVED AUG 23 1989 *ce*

POPULAR INITIATIVE  
PETITION

(Pursuant to Article XVIII Section 4 of the  
Commonwealth Constitution)

WE, THE UNDERSIGNED, hereby PETITION with our signatures to amend Constitutional Amendment 42 of the Constitution of the Commonwealth of the Northern Mariana Islands as set forth below and to submit such amendment for ratification to the voters at the next regular general election:

THEREFORE WE, THE UNDERSIGNED, PETITION that the following Constitutional Amendment be placed on the ballot for ratification by the voters.

The full text of the proposed constitutional amendment is as follows:

Section 1. Gambling Prohibited. Gambling activities conducted as a business and the use of gambling devices are prohibited in the Commonwealth of the Northern Mariana Islands except for activities and related devices for the operation of Raffles, Bingo, Batu, and Cockfighting.

a. There shall be no importation of gambling devices into the territory of the CNMI after the effective date of this Amendment or after January 1, 1990, whichever is later.

b. All poker machines and other gambling devices shall be removed from the CNMI within thirty (30) days after the effective date of this Amendment or after January 1, 1990 whichever is later.

Section 2. Definitions.

a. "Gambling" means any activity whereby a person risks money or a thing of value on the outcome of something involving chance except for normal commercial activities where a thing of value is offered and obtained for equal consideration in every case. Gambling activity includes, but is not limited to, games of craps, keno, faro, monte, roulette, lansquenet, punchboard, rouge-et-noir, rondo, tan, fan-tan, stud-horse poker, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, any of which are played for money, checks, credit, or any thing of value.

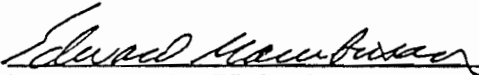
b. "Gambling device" means any machine, electronic or mechanical device which awards prizes or a thing of value to the operator or player based upon the chance of matching or aligning of symbols, insignia, numbers, letters or the like. Gambling devices include, but are not limited to, slot machines, poker machines, roulette wheels, and keno. Gambling devices shall not include music machines, weighing machines, pinball machines, video games and machines which vend cigarettus, candy, ice cream, food, confections, guns, or other merchandise in consideration and from which in every case the customer obtains that which he purchases or something of value.

c. "Thing of value" means any money, coin, currency, check, chip, allowance, token, credit, merchandise, property, or anything representative of value other than an additional chance or right to use or play."

Hon. Benjamin Manglona  
Hon. Pedro P. Deleon Guererro  
August 23, 1989  
Page 2 of 2

approved by a majority of the votes cast and atleast two-thirds of  
the votes cast in each of two senatorial districts.

Dated this 23rd day of August, 1989.



---

EDWARD MANIBUSAN  
Acting Attorney General

Enclosure

**RULES  
OF  
APPELLATE PROCEDURE**

**SUPREME COURT  
OF THE  
COMMONWEALTH  
OF THE  
NORTHERN MARIANA ISLANDS**

(Effective Date: \_\_\_\_\_, 1989)

## TABLE OF CONTENTS

RULE 1 -	<u>EFFECTIVE DATE, AUTHORITY, INTERPRETATION</u> .....	1
(a)	<u>Scope</u>	
(b)	<u>Interpretation</u>	
(c)	<u>Definition</u>	
(d)	<u>Format Of Pleadings</u>	
RULE 2 -	<u>SUSPENSION OF RULES</u> .....	2
RULE 3 -	<u>APPEAL AS OF RIGHT - HOW TAKEN</u> .....	2
(a)	<u>Filing The Notice Of Appeal</u>	
(b)	<u>Joint Or Consolidated Appeals</u>	
(c)	<u>Content Of The Notice Of Appeal</u>	
(d)	<u>Service Of The Notice Of Appeal</u>	
RULE 4 -	<u>APPEAL AS OF RIGHT - WHEN TAKEN</u> .....	3
(a)	<u>Appeals In Civil Cases</u>	
(b)	<u>Appeals In Criminal Cases</u>	
RULE 5 -	<u>RESERVED</u> .....	4
RULE 6 -	<u>RESERVED</u> .....	4
RULE 7 -	<u>BOND FOR COSTS ON APPEAL IN CIVIL CASES</u> .....	4
RULE 8 -	<u>STAY OR INJUNCTION PENDING APPEAL</u> .....	5
(a)	<u>Stay Must Ordinarily Be Sought In The First Instance In Commonwealth Superior Court; Motion For Stay In This Court</u>	
(b)	<u>Stay May Be Conditioned Upon Giving Of Bond; Proceedings Against Sureties</u>	
(c)	<u>Stays In Criminal Cases</u>	
RULE 9 -	<u>RELEASE IN CRIMINAL CASES</u> .....	6
(a)	<u>Appeals From Orders Respecting Release Entered Prior To A Judgment Of Conviction</u>	
(b)	<u>Release Pending Appeal From A Judgment Of Conviction</u>	

(c)	<u>Criteria For Release</u>	
RULE 10 -	<u>THE RECORD ON APPEAL</u>	6
(a)	<u>Composition Of The Record Available On Appeal</u>	
(b)	<u>The Transcript Of Proceedings; Duty Of Appellant To Order; Notice To Appellee If Partial Transcript Is Ordered</u>	
(c)	<u>Statement On The Evidence Or Proceedings When No Report Was Made Or When The Transcript Is Unavailable</u>	
(d)	<u>Agreed Statement As The Record On Appeal</u>	
(e)	<u>Correction Or Modification Of The Record</u>	
RULE 11 -	<u>ASSEMBLING THE RECORD</u>	8
(a)	<u>Duty Of Appellant</u>	
(b)	<u>Retention Of Record In The Superior Court For Use In Preparing Appellate Papers</u>	
(c)	<u>Duty Of The Clerk Of The Superior Court To Prepare And File Transcript; Notice To Supreme Court</u>	
(d)	<u>Form And Content Of The Transcript</u>	
(e)	<u>Retention Of Physical Exhibits In The Superior Court</u>	
RULE 12 -	<u>DOCKETING THE APPEAL; FILING OF THE RECORD</u>	10
(a)	<u>Docketing The Appeal</u>	
(b)	<u>Filing The Record Certificate</u>	
RULE 13 -	<u>RESERVED</u>	10
RULE 14 -	<u>RESERVED</u>	10
RULE 15 -	<u>RESERVED</u>	10
RULE 16 -	<u>RESERVED</u>	10
RULE 17 -	<u>RESERVED</u>	10
RULE 18 -	<u>RESERVED</u>	10
RULE 19 -	<u>RESERVED</u>	10
RULE 20 -	<u>RESERVED</u>	10

RULE 21 -	<u>WRITS OF MANDAMUS AND PROHIBITION DIRECTED TO JUDGE, OR JUDGES, AND OTHER EXTRAORDINARY WRITS</u> .....	10
	(a) <u>Mandamus Or Prohibition To A Judge Or Judges; Petition For Writ; Service And Filing</u>	
	(b) <u>Denial; Order Directing Answer</u>	
	(c) <u>Other Extraordinary Writs</u>	
	(d) <u>Form Of Papers; Number Of Copies</u>	
	(e) <u>Captions</u>	
	(f) <u>Certificate Of Interested Parties</u>	
RULE 22 -	<u>HABEAS CORPUS PROCEEDINGS</u> .....	12
RULE 23 -	<u>CUSTODY OF PRISONERS IN HABEAS CORPUS PROCEEDINGS</u> .....	12
	(a) <u>Transfer Of Custody Pending Review</u>	
	(b) <u>Detention Or Release Of Prisoner Pending Review Of Decision Failing To Release</u>	
	(c) <u>Release Of Prisoner Pending Review Of Decision Ordering Release</u>	
	(d) <u>Modification Of Initial Order Respecting Custody</u>	
RULE 24 -	<u>PROCEEDINGS IN FORMA PAUPERIS</u> .....	13
	(a) <u>Leave To Proceed On Appeal In Forma Pauperis From Superior Court to the Supreme Court</u>	
	(b) <u>Forms Of Briefs, Appendices And Other Papers</u>	
RULE 25 -	<u>FILING AND SERVICE</u> .....	14
	(a) <u>Filing</u>	
	(b) <u>Service Of All Papers Required</u>	
	(c) <u>Manner Of Service</u>	
	(d) <u>Proof Of Service</u>	
	(e) <u>Communications To The Court</u>	
RULE 26 -	<u>COMPUTATION AND EXTENSION OF TIME</u> .....	15
	(a) <u>Computation Of Time</u>	
	(b) <u>Enlargement Of Time</u>	
	(c) <u>Additional Time After Service By Mail</u>	

RULE 27 - MOTIONS ..... 16

- (a) Content Of Motions: Response: Reply
- (b) Notice And Supporting Papers
- (c) Determination Of Motions For Procedural Orders
- (d) Power Of A Single Justice To Entertain Motions
- (e) Form Of Papers: Number Of Copies
- (f) Emergency Motions And Ex Parte Motions
- (g) Emergency Criminal Interlocutory Appeals
- (h) Required Recitals In Criminal Cases
- (i) Voluntary Dismissals

RULE 28 - BRIEFS ..... 18

- (a) Brief Of The Appellant
- (b) Brief Of The Appellee
- (c) Reply Brief
- (d) References In Briefs To Parties
- (e) References In Briefs To The Record
- (f) Reproduction Of Statutes, Rules, Regulations, etc.
- (g) Length Of Briefs
- (h) Briefs In Cases Involving Cross Appeals
- (i) Briefs In Cases Involving Multiple Appellants Or Appellees
- (j) Citation Of Supplemental Authorities
- (k) Certificate As To Interested Parties
- (l) Statement Of Jurisdiction
- (m) Attorney's Fees
- (n) Bail Status
- (o) Reviewability And Standard Of Review
- (p) Statement Of Related Cases
- (q) Addendum To Briefs
- (r) Computation
- (s) Motions To Exceed Page Limits
- (t) Joint Briefs In Civil Cases

RULE 29 - BRIEF OF AN AMICUS CURIAE ..... 23

RULE 30 - THE EXCERPTS OF RECORD ..... 23

- (a) Filing Of The Excerpts Of Record
- (b) Required Content Of The Excerpts of Record
- (c) Additional Items Which Should Be Included In The Excerpts Of Record In Appropriate Circumstances

(d)	<u>Items Not To Be Included In The Excerpts Of Record</u>	
(e)	<u>Form Of The Excerpts Of Record</u>	
(f)	<u>Appellee's Supplemental Excerpts Of Record</u>	
(g)	<u>Sanctions For Inclusion Of Unnecessary Material In The Excerpts Of Record</u>	
(h)	<u>Prisoner Petitions Without Representation By Counsel</u>	
RULE 31 -	<u>FILING AND SERVICE OF BRIEFS</u> .....	25
(a)	<u>Time For Serving And Filing Briefs</u>	
(b)	<u>Number Of Copies To Be Filed And Served</u>	
(c)	<u>Consequence Of Failure To File Briefs</u>	
(d)	<u>Extensions Of Time For Filing Briefs</u>	
(e)	<u>Late Filing Of Briefs</u>	
RULE 32 -	<u>FORMS OF BRIEFS, APPENDICES AND OTHER PAPERS</u> .....	27
(a)	<u>Form Of Briefs And Appendices</u>	
(b)	<u>Form Of Other Papers</u>	
RULE 33 -	<u>PRE-HEARING CONFERENCE</u> .....	27
RULE 34 -	<u>ORAL ARGUMENT</u> .....	28
(a)	<u>In General</u>	
(b)	<u>Notice Of Argument; Postponement</u>	
(c)	<u>Order And Content Of Argument</u>	
(d)	<u>Cross And Separate Appeals</u>	
(e)	<u>Non-appearance Of Parties</u>	
(f)	<u>Submission On Briefs</u>	
(g)	<u>Use Of Physical Exhibits At Argument; Removal</u>	
RULE 35 -	<u>RESERVED</u> .....	29
RULE 36 -	<u>ENTRY OF JUDGMENT</u> .....	29
RULE 37 -	<u>INTEREST ON JUDGMENTS</u> .....	30
RULE 38 -	<u>DAMAGES FOR FRIVOLOUS APPEAL/SANCTION</u> .....	30
(a)	<u>Frivolous Appeal/Damages</u>	
(b)	<u>Sanction</u>	

RULE 39 - COSTS ..... 31

- (a) To Whom Allowed
- (b) Costs Taxable On Appeal
- (c) Bill Of Costs; Objections, Costs To Be Inserted In Mandate Or Added Later
- (d) Request For Attorney's Fees

RULE 40 - PETITION FOR RE-HEARING..... 32

- (a) Time For Filing; Content; Answer; Action By Court If Granted
- (b) Form Of Petition, Length

RULE 41 - ISSUANCE OF MANDATE; STAY OF MANDATE..... 32

- (a) Date Of Issuance
- (b) Stay Of Mandate Pending Appeal To The Ninth Circuit
- (c) Earlier Issuance Of Mandate

RULE 42 - DISMISSALS..... 33

- (a) Dismissal In The Superior Court
- (b) Dismissal In The Supreme Court
- (c) Dismissal For Failure To Prosecute

RULE 43 - SUBSTITUTION OF PARTIES..... 34

- (a) Death Of A Party
- (b) Substitution For Other Causes
- (c) Public Officers; Death Or Separation From Office

RULE 44 - CONSTITUTIONALITY OF STATUTE..... 35

RULE 45 - DUTIES OF CLERKS ..... 35

- (a) General Provisions
- (b) The Docket; Calendar; Other Records Required
- (c) Notice Of Orders Or Judgments
- (d) Custody Of Records And Papers

RULE 46 - RESERVED ..... 36

RULE 47 - RULES BY SUPREME COURT ..... 36

RULE 48 - OTHER MATTERS ..... 36

RULE 49 - WITHDRAWAL OF COUNSEL ..... 36

## RULE 1 - EFFECTIVE DATE, AUTHORITY, INTERPRETATION

(a) Scope. These rules govern the procedure for appeals from the Superior Court to the Supreme Court of the Commonwealth of the Northern Mariana Islands. They are promulgated pursuant to Article IV, Section 2 of the Constitution of the Commonwealth of the Northern Mariana Islands, and Public Law No. 6-25.

When these rules provide for the making of a motion or application in the Superior Court, the procedure for making such motion or application shall be in accordance with the practice of that court.

Nothing in these Rules shall be construed to limit or extend the lawfully established appellate jurisdiction of this court.

These rules shall be known and cited as the Rules of Appellate Procedure (R. App. Proc.)

These Rules shall take effect sixty (60) days after submission to the CNMI Legislature unless earlier approved by a majority of both houses or disapproved by a majority of the members of either house of the legislature, and shall govern all proceedings thereafter brought and in all proceedings then pending, except that, if this Court decides that their application in a pending case would be infeasible or unjust, then the Court may continue to apply the former rules in that case.

(b) Interpretation. Where a matter is not addressed herein, the Rules of the Superior Court, whenever relevant, are adopted as part of the Rules of this Court.

(c) Definition. Unless the context indicates otherwise, "Clerk" shall mean the Clerk of this Court, "this Court" shall mean the Supreme Court, and "Superior Court" shall mean the Commonwealth Superior Court.

(d) Format of pleadings, where relevant, shall conform to Rule 7 of the Superior Court Rules of Practice.

## RULE 2 - SUSPENSION OF RULES

In the interest of justice, or to expedite a decision, or for other good cause shown, this Court may suspend the requirements or provisions of any of these rules in a particular case, on application of a party or on its own motion, and may order proceedings in accordance with its direction.

## RULE 3 - APPEAL AS OF RIGHT - HOW TAKEN

(a) Filing The Notice of Appeal. An appeal permitted by law as of right from the Superior Court to this Court shall be taken by filing a notice of appeal with the clerk of the Superior Court within the time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as this Court deems appropriate, which may include dismissal of the appeal.

(b) Joint Or Consolidated Appeals. If two or more persons are entitled to appeal from a judgment or order of the Superior Court and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of this Court upon its own motion or upon motion of a party, or by stipulation of the parties to the several appeals.

(c) Content Of The Notice Of Appeal. The Notice of appeal shall specify the party or parties taking the appeal; shall name the trial judge; shall designate the judgment, order or part thereof appealed from; and shall include the name of this Court. Form 1 in the Appendix of Forms is a suggested form of a notice of appeal. An appeal shall not be dismissed for informality of form or title of the notice of appeal.

(d) Service Of The Notice Of Appeal. The clerk of the Superior Court shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record of each party other than the appellant, or, if a party is not represented by counsel, to the last known address of that party. The Superior Court clerk shall transmit forthwith a copy of the notice of appeal to the Clerk of this Court. When an appeal is taken by a defendant in a criminal case, the Superior Court clerk shall also serve a copy of the notice of appeal upon the

defendant, either by personal service or by mail addressed to the defendant. The clerk shall note on each copy served the date on which the notice of appeal was filed. Failure of the clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or the party's counsel. The Superior Court clerk shall note in the docket the names of the parties to whom the clerk mails copies, with the date of mailing.

RULE 4 - APPEAL AS OF RIGHT - WHEN TAKEN

(a) Appeals In Civil Cases.

(1) In a civil case in which an appeal is permitted by law as of right from the Superior Court to this Court the notice of appeal required by Rule 3 shall be filed with the clerk of the Superior Court within 30 days after the date of entry of the judgment or order appealed from. The filing of the judgment with the clerk of the Superior Court constitutes entry of judgment. If a notice of appeal is mistakenly filed in this Court, the Clerk of this Court shall note thereon the date on which it was received and transmit it to the clerk of the Superior Court and it shall be deemed filed in the Superior Court on the date so noted.

(2) Except as provided in (a)(4) of this Rule 4, a notice of appeal filed after the announcement of a decision or order but before the entry of the judgment or order shall be treated as filed on the day of entry.

(3) If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days after the date on which the first notice of appeal was filed.

(4) If a timely motion under the Commonwealth Rules of Civil Procedure is filed in the Superior Court by any party: (i) for judgment; (ii) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (iii) to alter or amend the judgment; or (iv) for a new trial, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion. A notice of appeal filed before the disposition of any of the above motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order

disposing of the motion as provided above. No additional fees shall be required for such filing.

(5) The Superior Court, upon showing of good cause, may extend the time for filing a notice of appeal upon motion filed before the expiration of the time prescribed by this Rule 4(a). Such motion may be ex parte unless the Superior Court otherwise requires. No such extension by the Superior Court may exceed 30 days.

(b) Appeals In Criminal Cases. In a criminal case the notice of appeal by a defendant shall be filed in the Superior Court within 30 days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within 10 days after the entry of an order denying the motion. A motion for a new trial based on newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made within 10 days after entry of the judgment. When an appeal by the government is authorized by statute, the notice of appeal shall be filed in the Superior Court within 30 days after the entry of the judgment or order appealed from. A judgment or order is entered within the meaning of this subdivision when it is filed with the clerk of the Superior Court. Upon a showing of good cause the Superior Court may, before the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 30 days from the expiration of the time prescribed by this Rule 4(b).

RULE 5 - RESERVED.

RULE 6 - RESERVED.

RULE 7 - BOND FOR COSTS ON APPEAL IN CIVIL CASES

The Superior Court may require an appellant to file a bond or provide other security in such form and amount as it finds necessary to

ensure payment of costs on appeal in a civil case. The provisions of Rule 8(b) apply to a surety upon a bond given pursuant to this rule.

When an appeal is taken by the CNMI government or an officer or agency thereof in his/her official capacity, no security may be required for stay of execution of judgment pending appeal.

#### RULE 8 - STAY OR INJUNCTION PENDING APPEAL

(a) Stay Must Ordinarily Be Sought In the First Instance In Superior Court: Motion For Stay In this Court. Application for a stay of the judgment or order of the Superior Court pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal must be made in the first instance in the Superior Court. A motion for such relief may be made to this Court or a justice thereof, but the motion shall show that application to the Superior Court is not practicable, or that the Superior Court has denied an application or has failed to afford the relief which the applicant requested, with the reasons given by the Superior Court for its action. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements or copies thereof. With the motion shall be filed such parts of the record as are relevant. Reasonable notice of the motion shall be given to all parties. The motion shall be filed with the Clerk of this Court and usually will be considered by a single justice of this Court.

(b) Stay May Be Conditioned Upon Giving Of Bond: Proceedings Against Sureties. Relief available in this Court under this rule may be conditioned upon the filing of a bond or other appropriate security in the Superior Court. If security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Superior Court and irrevocably appoints the clerk of that court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. A surety's liability may be enforced on motion in the Superior Court without the necessity of an independent action. The motion and such notice of the motion as the Superior Court prescribes may be served on the clerk of that court, who shall forthwith mail copies to the sureties if their addresses are known.

(c) Stays In Criminal Cases. Stays in criminal cases shall be had in accordance with Rule 8(a) herein, and any applicable Rules of Criminal Procedure.

#### RULE 9 - RELEASE IN CRIMINAL CASES

(a) Appeals From Orders Respecting Release Entered Prior To A Judgment Of Conviction. An appeal authorized by law from an order refusing or imposing conditions of release shall be determined promptly. Upon entry of an order refusing or imposing conditions of release, the Superior Court shall state in writing the reasons for the action taken. The appeal shall be heard without the necessity of briefs after reasonable notice to the appellee upon such papers, affidavits, and portions of the record as the parties shall present. This Court or a justice thereof may order the release of the appellant pending the appeal.

(b) Release Pending Appeal From A Judgment Of Conviction. Application for release after a judgment of conviction shall be made in the first instance in the Superior Court. If the Superior Court refuses release pending appeal, or imposes conditions of release, the Court shall state in writing the reasons for the action taken. Thereafter, if an appeal is pending, a motion for release, or for modification of the conditions of release pending review may be made to this Court or to a justice thereof. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the appellee. This Court or a justice thereof may order the release of the appellant pending disposition of the motion.

(c) Criteria For Release. The decision in this Court as to release pending appeal shall be made in accordance with Superior Court Criminal Rule 46. Defendant has the burden of establishing that he will not flee or pose a danger to any other person or to the community and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial.

#### RULE 10 - THE RECORD ON APPEAL

(a) Composition Of The Record Available On Appeal. The original papers and exhibits filed in the Superior Court, the transcript

of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the Superior Court shall constitute the available record on appeal in all cases.

(b) The Transcript Of Proceedings: Duty Of Appellant To Order; Notice To Appellee If Partial Transcript Is Ordered.

(1) Within 10 days after filing the notice of appeal the appellant shall, in writing, order from the clerk of the Superior Court a transcript of such parts of the proceedings, not already on file, as the appellant deems necessary using the Superior Court's Transcript Designation and Order Form. If no such parts of the proceedings are to be ordered, within the same period the appellant shall file a certificate to that effect. An original for the court and one copy for each appellee shall be ordered.

(2) If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion.

(3) Unless the entire transcript is to be included, the appellant shall, within the 10 days as provided in (b)(1) above, file a statement of the issues the appellant intends to present on the appeal and shall serve on the appellee a copy of the order of the transcript and of the statement. If the appellee deems a transcript or other parts of the proceedings to be necessary, the appellee shall, within 10 days after the service of the order and the statement of the appellant, file and serve on the appellant a designation of additional parts to be included. Unless within 10 days after service of such designation the appellant has ordered such parts, and has so notified the appellee, the appellee may within the following 10 days either order the parts or move in the Superior Court for an order requiring the appellant to do so.

(4) At the time of ordering, a party must pay the clerk of the Superior Court the estimated cost of the transcript.

(c) Statement On The Evidence Or Proceedings When No Report Was Made Or When The Transcript Is Unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement shall be served on the appellee,

who may serve objections or proposed amendments thereto within 10 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the Superior Court for settlement and approval and as settled and approved shall be included by the clerk of the Superior Court in the record on appeal.

(d) Agreed Statement As The Record On Appeal. In lieu of the record on appeal as defined in subdivision (a) of this rule, the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the Superior Court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with such additions as that court may consider necessary to fully present the issues raised by the appeal, shall be approved by the Superior Court and shall then be certified to this Court as the record on appeal within the time provided by Rule 11.

(e) Correction Or Modification Of The Record. If any difference arises as to whether the record truly discloses what occurred in the Superior Court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the Superior Court either before or after the record is certified to this Court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified. All other questions as to the form and content of the record shall be presented to this Court.

#### RULE 11 - ASSEMBLING THE RECORD

(a) Duty of Appellant. After filing the notice of appeal, or in the event that more than one appeal is taken, each appellant shall comply with the provisions of Rule 10(b) and shall take any other action necessary to enable the clerk to assemble the record.

(b) Retention Of Record In The Superior Court For Use In Preparing Appellate Papers. The clerk of the Superior Court shall retain the record for use by the parties in preparing appellate papers. In that event the clerk of the Superior Court shall certify to the Clerk

of this Court that the record, including the transcript or parts thereof designated for inclusion and all necessary exhibits, is complete for purposes of the appeal. A certified copy of the docket entries shall be transmitted in lieu of the entire record, subject to the authority of this Court to request at any time during the pendency of the appeal that designated parts of the record be transmitted. The filing of the certificate of record with this Court shall indicate that this Court considers the record filed.

(c) Duty of the Clerk of The Superior Court To Prepare And File Transcript; Notice To Supreme Court. Upon receipt of an order and payment for a transcript, the clerk of the Superior Court shall acknowledge, at the foot of the order, the fact that the clerk has received the order and payment. The clerk shall indicate the date when he/she expects to have the transcript completed and shall transmit the order, so endorsed, to the Clerk of this Court. The transcript should in all cases be completed within thirty (30) days. If the transcript cannot be completed within 30 days of receipt of the order the clerk shall request an extension of time from a judge of the Superior Court and the action of the clerk of that Court shall be entered on the docket and the parties notified. In the event of the failure of the clerk to file the transcript within the time allowed, a judge of the Superior Court shall notify this Court and take such other steps as may be justified. Upon completion of the transcript it shall be filed with the clerk of the Superior Court.

(d) Form And Content Of The Transcript. The portions of the transcript ordered shall be bound by the transcriber in a volume or volumes with pages uniformly and consecutively numbered throughout all volumes. It shall include for those portions ordered, an index with the names of all relevant witnesses, relevant direct, cross, redirect and other examinations, and all relevant exhibit numbers, when offered and received or rejected, as well as relevant instructions and colloquy on instructions. The index shall refer to the number of the volume and the page, shall be cumulative for all volumes, and shall be placed in the first volume.

(e) Retention Of Physical Exhibits In The Superior Court. All physical exhibits in all cases shall be retained in the Superior Court unless requested by this Court.

RULE 12 - DOCKETING THE APPEAL; FILING OF THE RECORD

(a) Docketing The Appeal. Upon receipt of the copy of the notice of appeal transmitted by the Superior Court pursuant to Rule 3(d), the Clerk of this Court shall thereupon enter the appeal upon the docket. An appeal shall be docketed under the title given to the action in the Superior Court, with the appellant identified as such, but if such title does not contain the name of the appellant, the appellant's name, identified as appellant, shall be added to the title.

(b) Filing The Certificate. Upon receipt of the clerk's certificate of record under Rule 11(b), the Clerk of this Court shall file it and shall immediately give notice to all parties of the date on which it was filed.

RULE 13 - RESERVED.

RULE 14 - RESERVED.

RULE 15 - RESERVED.

RULE 16 - RESERVED.

RULE 17 - RESERVED.

RULE 18 - RESERVED.

RULE 19- RESERVED.

RULE 20 - RESERVED.

RULE 21 - WRITS OF MANDAMUS AND PROHIBITION DIRECTED TO JUDGE  
OR  
JUDGES, AND OTHER EXTRAORDINARY WRITS

(a) Mandamus Or Prohibition To A Judge Or Judges; Petition For Writ; Service And Filing. Application for a writ of mandamus or of

prohibition directed to a judge or judges shall be made by filing a petition therefor with the Clerk of this Court with proof of service on the respondent judge or judges and on all parties to the action in the Superior Court. The petition shall contain a statement of the facts necessary for an understanding of the issues presented by the application; a statement of the issues presented and of the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. Upon receipt of proof of payment of the prescribed docket fee, payable to the clerk of Superior Court, the Clerk of this Court shall docket the petition and submit it to this Court.

(b) Denial; Order Directing Answer. If this Court is of the opinion that the writ should not be granted, it shall deny the petition. Otherwise, it shall order that an answer to the petition be filed by the respondents within the time fixed by the order. The order shall be served by the Clerk of this Court on the judge or judges named respondents and on all other parties to the action in the Superior Court. All parties below other than the petitioner shall be deemed respondents for all purposes. Two or more respondents may answer jointly. If the judge or judges named respondents do not desire to appear in the proceeding, they may so advise the Clerk of this Court and all parties by letter, but the petition shall not thereby be taken as admitted. The Clerk shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument. The proceeding shall be given preference over ordinary civil cases.

(c) Other Extraordinary Writs. Application for extraordinary writs other than those provided for in subdivisions (a) and (b) of this Rule shall be made by petition filed with the Clerk of this Court with proof of service on the parties named as respondents. Proceedings on such application shall conform, so far as is practicable, to the procedure prescribed in subdivisions (a) and (b) of this Rule.

(d) Form Of Papers; Number Of Copies. An original and three (3) copies (unless the Court orders more copies) of all papers shall be typewritten and filed with the Clerk.

(e) Captions. Petitions for writs of mandamus, prohibition or other extraordinary relief directed to a judge shall bear the title of the Superior Court and shall not bear the name of the Superior Court judge or judges, as respondent in the caption. Petitions shall include in the

caption: the name of each petitioner; the name of the appropriate court as respondent; and the name of each real party in interest. Other petitions for extraordinary writs shall include in the caption: the name of each petitioner; and the name of each appropriate adverse party below as respondent.

(f) Certificate Of Interested Parties. Petitions for writs of mandamus or prohibition, and for other extraordinary writs, shall include the certificate as to interested parties required by Rule 28(k) and the statement of related cases required by Rule 28(p).

#### RULE 22 - HABEAS CORPUS PROCEEDINGS

An application for a writ of habeas corpus shall be made to the Superior Court pursuant to 6 CMC §7101 et. seq. If the Superior Court denies the application then the applicant may appeal to this Court pursuant to 6 CMC §7107.

#### RULE 23 - CUSTODY OF PRISONERS IN HABEAS CORPUS PROCEEDINGS

(a) Transfer Of Custody Pending Review. Pending review by this Court of a decision in a habeas corpus proceeding commenced before the Superior Court for the release of a prisoner, a person having custody of the prisoner may not transfer custody to another unless such transfer is directed in accordance with the provisions of this Rule. Upon application of a custodian showing a need therefor, the judge rendering the decision may make an order authorizing transfer and provide for the substitution of the successor custodian as a party.

(b) Detention Or Release Of Prisoner Pending Review Of Decision Failing To Release. Pending review of a decision failing or refusing to release a prisoner in such a proceeding, the prisoner may be detained in the custody from which release is sought, or in other appropriate custody, or may be enlarged upon the prisoner's recognizance, with or without surety, as may appear fitting to the judge rendering the decision, or to this Court.

(c) Release Of Prisoner Pending Review Of Decision Ordering Release. Pending review of a decision ordering the release of a prisoner in such a proceeding, the prisoner shall be released upon the

prisoner's recognizance, with or without surety, unless the judge rendering the decision, or this Court otherwise orders.

(d) Modification Of Initial Order Respecting Custody. An initial order respecting the custody or enlargement of the prisoner and any recognizance or surety taken, shall govern review in this Court, unless for special reasons shown to this Court, the order shall be modified, or an independent order respecting custody, enlargement or surety shall be made.

#### RULE 24 - PROCEEDINGS IN FORMA PAUPERIS

(a) Leave To Proceed On Appeal In Forma Pauperis From Superior Court to the Supreme Court. A party to an action in the Superior Court who desires to proceed on appeal in forma pauperis shall file in the Superior Court a motion for leave so to proceed, together with an affidavit, showing, in the detail prescribed by Form 2 of the Appendix of Forms, the party's inability to pay fees and costs or to give security therefor, the party's belief that the party is entitled to redress, and a statement of the issues which that party intends to present on appeal. If the motion is granted, the party may proceed without further application to this Court and without payment of fees or costs in either court or the giving of security therefor. If the motion is denied, the Superior Court shall state in writing the reasons for the denial.

Notwithstanding the provisions of the preceding paragraph, a party who has been permitted to proceed in an action in the Superior Court in forma pauperis, or who has been permitted to proceed there as one who is financially unable to obtain adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization unless, before or after the notice of appeal is filed, the Superior Court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled to proceed, in which event the Superior Court shall state in writing the reasons for such certification or finding.

If a motion for leave to proceed on appeal in forma pauperis is denied by the Superior Court, or if the Superior Court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled to proceed in forma pauperis, the Superior Court clerk shall forthwith serve notice of such action on the Clerk of this

Court. A motion for leave so to proceed may be filed in this Court within 30 days after service of notice of the action of the Superior Court. The motion shall be accompanied by a copy of the affidavit filed in the Superior Court, or by the affidavit prescribed by the first paragraph of this subdivision if no affidavit has been filed in the Superior Court, and by a copy of the statement of reasons given by the Superior Court for its actions.

(b) Forms Of Brief, Appendices And Other Papers. Parties allowed to proceed in forma pauperis must file briefs, appendices and other papers in typewritten form, and may request that the appeal be heard on the original record without the necessity of reproducing parts thereof in any form.

#### RULE 25 - FILING AND SERVICE

(a) Filing. Papers required or permitted to be filed in this Court shall be filed with the Clerk. Filing may be accomplished by mail addressed to the Clerk, but filing shall not be timely unless the papers are received by the Clerk within the time fixed for filing, except that briefs shall be deemed filed on the day of mailing if the most expeditious form of delivery by mail, excepting special delivery, is utilized.

(b) Service Of All Papers Required. Copies of all papers filed by any party and not required by these rules to be served by the Clerk shall, at or before the time of filing, be served by a party or person acting for that party on all other parties to the appeal or review. Service on a party represented by counsel shall be made on counsel.

(c) Manner Of Service. Service may be personal or by mail. Personal service includes delivery of the copy to an employee or other responsible person at the office of counsel. Service by mail is complete on mailing.

(d) Proof Of Service. Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the name of the person served, certified by the person who made service.

Proof of service may appear on or be affixed to the papers filed. The Clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter.

(e) Communications To The Court. All communications to the Court, including the papers to be filed, shall comply with these Rules and shall be addressed to the Clerk of the Supreme Court for the Northern Mariana Islands, Post Office Box 2165, Saipan, MP 96950. When it is intended that a communication come to the personal attention of a justice or justices, sufficient copies, not including the original, shall be supplied to the Clerk so that the Clerk can furnish a copy to each justice.

#### RULE 26 - COMPUTATION AND EXTENSION OF TIME

(a) Computation Of Time. In computing any period of time prescribed by these rules, by an order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period extends until the end of business of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule "legal holiday" includes New Year's Day, Commonwealth Day, President's Day, Covenant Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Citizenship Day, Veteran's Day, Thanksgiving Day, Constitution Day, Christmas Day, and any other day appointed as a holiday by the Governor or the Legislature of the Commonwealth of the Northern Mariana Islands.

(b) Enlargement Of Time. The Court for good cause shown may upon motion enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time; but the court may not enlarge the time for filing a notice of appeal. Whenever an extension of time has been granted, it shall be the duty of the party for whom such extension has been granted to give all parties to the proceedings prompt notice thereof.

(c) Additional Time After Service By Mail. Whenever a party is required or permitted to do an act within a prescribed period after

service of a paper upon that party and the paper is served by mail, 3 days shall be added to the prescribed period.

#### RULE 27 - MOTIONS

(a) Content Of Motions; Response; Reply. Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion other than one for a procedural order [for which see subdivision (c)] within 7 days after service of the motion, but motions authorized by Rules 8, 9, and 41 may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion.

(b) Notice And Supporting Papers. Except as otherwise ordered or permitted by a justice of this Court and except for applications for an ex parte order, all motions shall be noticed in writing on the motion calendar for hearing not less than fourteen (14) days after service. Each notice of motion shall be accompanied, where appropriate, by affidavits or declarations under penalty of perjury sufficient to support any material factual contentions, and by an appropriate memorandum or brief. The other party may file a response no later than three (3) calendar days prior to the date of hearing.

(c) Determination Of Motions For Procedural Orders. Notwithstanding the provisions of (a) of this Rule as to motions generally, motions for procedural orders, including any motion under Rule 26(b), may be acted upon at any time, without awaiting a response thereto. Any party adversely affected by such action may apply to the Court to reconsider, vacate or modify such order.

(d) Power Of A Single Justice To Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single justice of this Court may entertain and may grant or deny any request for relief which under these rules may properly be sought by motion, except that a single justice may not dismiss or otherwise determine an

appeal or other proceeding. The action of a single justice may be reviewed by the full panel.

(e) Form Of Papers; Number Of Copies. All papers relating to motions must be typewritten. For motions to be considered by a single justice, an original and one copy shall be filed, but the Court may require that additional copies be furnished.

(f) Emergency and Ex Parte Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than fourteen (14) days, the motion shall be governed by the following requirements:

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

(2) Any motion under this Rule shall have a cover page bearing the legend "Emergency (or Ex Parte) Motion Under Rule 27(f)" and the caption of the case.

A certificate of counsel for the movant, entitled "Rule 27(f) Certificate", shall follow the cover page and shall contain:

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

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

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

(3) The motion shall state whether all grounds advanced in support thereof in this Court were submitted to the Superior Court, and, if not, why the motion should not be remanded or denied.

(g) Emergency Criminal Interlocutory Appeals. If emergency treatment is sought for an interlocutory criminal appeal, motions for expedition, summary affirmances or reversal, or dismissal, they may be filed pursuant to Rule 27(f). To avoid delay in the disposition of such motions, counsel should include with the motions all material that may bear upon the disposition of the appeal, including: a copy of the

notice of appeal; Superior Court docket sheet, moving papers of the parties and any responses thereto filed in the Superior Court; the Superior Court's order at issue; information concerning the scheduled trial date; information regarding co-defendants; and information concerning other counts contained in the information but not in issue.

(h) Required Recitals in Criminal Cases. Every motion in a criminal appeal shall recite any previous application for the relief sought and the bail status of the defendant.

(i) Voluntary Dismissals. Motions or stipulations for voluntary dismissals of criminal appeals shall, if made or joined in by counsel for appellant, be accompanied by appellant's written consent thereto, or counsel's explanation of why appellant's consent was not obtained.

#### RULE 28 - BRIEFS

(a) Brief Of The Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(1) A table of contents, with page reference, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the brief where they are cited.

(2) A statement of the issues presented for review and the standard of review for each issue.

(3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. There shall follow a statement of the facts relevant to the issues presented for review, with appropriate references to the record.

(4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.

(5) A short conclusion stating the precise relief sought.

(b) Brief Of The Appellee. The brief of the appellee shall conform to the requirements of subdivision (a)(1)-(4), except that a

statement of the issues or of the case need not be made unless the appellee is dissatisfied with the statement of the appellant.

(c) Reply Brief. The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross appeal. No further briefs may be filed except with leave of court. All reply briefs shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with references to the pages of the reply brief where they are cited.

(d) References In Briefs To Parties. Counsel will be expected in their briefs and oral arguments to keep to a minimum references to parties by such designations as "appellant" and "appellee". It promotes clarity to use the designations used in the Superior Court, or the actual names of parties, or descriptive terms such as "the employee", "the injured person", "the taxpayer", "the ship", "the stevedore", etc.

(e) References in Briefs To The Record. References in the briefs to parts of the record reproduced in the excerpt filed with the brief of the appellant (see Rule 30(a)) shall be to the pages of the excerpt at which those parts appear. If the record is reproduced in accordance with the provisions of Rule 30(f), or if references are made in the briefs to parts of the record not reproduced, the references shall be to the pages of the parts of the record involved; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages of the excerpt at which the evidence was identified, offered, and received or rejected.

(f) Reproduction of Statutes, Rules, Regulations, etc. If determination of the issues presented requires the study of statutes, rules, regulations, etc. or relevant parts thereof, they shall be reproduced in the brief or in an addendum (Rule 28(q)) at the end, or they may be supplied to the Court in pamphlet form.

(g) Length Of Briefs. Except by prior permission of the Court, appellant's opening brief and appellee's response brief shall not exceed 50 pages, and any reply brief shall not exceed 25 pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations, etc.

(h) Briefs In Cases Involving Cross Appeals. If a cross appeal is filed, the plaintiff in the Court below shall be deemed the appellant for the purposes of this rule and Rules 30 and 31, unless the parties otherwise agree or the Court otherwise orders. The brief of the appellee shall contain the issues and argument involved in his appeal as well as the answer to the brief of the appellant.

(i) Briefs In Cases Involving Multiple Appellants Or Appellees. In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(j) Citation Of Supplemental Authorities. When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party shall promptly advise this Court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to a point argued orally to which the citations pertain, but the letter shall be without argument and shall state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

(k) Certificate As To Interested Parties. In all cases except criminal and habeas corpus cases, counsel for private (non-government) parties shall attach to the inside of the cover of the initial brief counsel's certificate listing all persons, associations of persons, firms, partnerships, or corporations known to have an interest in the outcome of the case, as follows:

Number and Caption of Case  
Certificate Required by Rule 28(k)

The undersigned, counsel of record for \_\_\_\_\_  
certifies that the following have an interest in the  
outcome of this case: (Here list the names of all such  
parties and identify their interests.)

These representations are made to enable justices of  
the court to evaluate possible recusal.

-----  
Attorney of Record for Plaintiff/Defendant

If there are no known interested parties other than those participating in the case, a statement to that effect will constitute compliance with this rule.

(l) Statement of Jurisdiction. In a statement preceding the statement of the case in its initial brief, each party shall demonstrate the jurisdiction of the Superior Court and of this Court by stating, in the following order:

(1) The statutory basis of subject matter jurisdiction of the Superior Court;

(2) The basis for claiming that the judgment or order appealed from is final or otherwise appealable, and the statutory basis of jurisdiction of this Court; and

(3) The date of entry of the judgment or order appealed from, the date of filing of the notice of appeal or petition for review, and the statute or rule under which it is claimed the appeal is timely.

If the appellee agrees with appellant's statement of one or more of the foregoing matters, it will be sufficient for the appellee to state such agreement under an appropriate heading.

(m) Attorney's Fees. Any party in a civil case who intends to seek attorney's fees for the appeal must include a short statement to that effect and must identify the authority under which the attorney's fees will be sought. Failure to comply with this provision may constitute a waiver of such fees, in whole or in part.

(n) Bail Status. The opening brief in a criminal appeal shall contain a statement as to the bail status of the defendant.

(o) Reviewability And Standard Of Review. As to each issue, appellant shall state where in the record on appeal the issue was raised and ruled on and identify the applicable standard of review, with citations. In addition, if a ruling complained of on appeal is one to which a party must have objected at trial, to preserve a right of review, e.g., a failure to admit or exclude evidence or the giving or refusal to give a jury instruction, the party shall state where in the record on appeal the objection and ruling are set forth.

(p) Statement Of Related Cases. Each party shall identify in a statement on the last page of its initial brief any known related case pending in this Court. As to each such case, the statement shall include the name and Supreme Court docket number of the related case and describe its relationship to the case being briefed. Cases are deemed related if they:

- (1) arise out of the same or consolidated cases in the Superior Court;
- (2) are cases previously heard in this Court which concern the case being briefed;
- (3) raise the same or closely related issues; or
- (4) involve the same transaction or event.

If no other cases in this Court are deemed related, a statement shall be made to that effect. The appellee need not include any case identified as related in the appellant's brief.

(q) Addendum To Briefs. If determination of the issues presented requires the study of statutes, regulations or rules, or cases not available in the Commonwealth judicial law library, relevant parts thereof shall be reproduced in an addendum at the end of a party's brief. The addendum shall be separated from the brief by a distinctively colored page.

(r) Computation. In addition to those items excluded from page limit computations by Rule 28(g), the certificate as to interested parties, statement of related cases and any addendum shall not be counted in determining the length of a brief. All other material in the brief, including all materials required by these rules, shall be counted in determining the length of briefs, and none of the requirements of this rule is a justification for filing a motion to exceed page limits. Parties must not append or incorporate by reference briefs submitted to the Superior Court or refer this Court to such briefs for their arguments on the merits of the appeal.

(s) Motions To Exceed Page Limits. The Court looks with disfavor on motions to exceed the page limits in Rule 28(g) and such motions will be granted only for extraordinary and compelling reasons. A motion for permission to exceed page limits must be filed at least 14

days before the brief is due to be filed (7 days in the case of a reply brief) and must be accompanied by an affidavit stating in detail the reasons for the motion. The cost of preparing and revising the brief will not be considered by the Court in ruling on a motion to exceed page limits.

(t) Joint Briefs in Civil Cases. In civil cases involving more than one appellant or appellee, and in cases consolidated for purposes of the appeal, all parties on a side shall join in a single brief to the greatest extent practicable. Upon application, the Court may allow the joint parties up to 5 additional pages in which to discuss any differences in their positions.

#### RULE 29- BRIEF OF AN AMICUS CURIAE

A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of court granted on motion, or at the request of the Court, except that consent or leave shall not be required when the brief is presented by the CNMI government or any of its branches, agencies and instrumentalities. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Except when all parties consent, any amicus curiae shall file its brief within the time allowed the party whose position it supports unless the Court, for cause shown, shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. A motion of an amicus curiae to participate in the oral argument will not be granted except for extraordinary reasons.

No reply brief of an amicus curiae will be received.

#### RULE 30 - THE EXCERPTS OF RECORD

(a) Filing of the Excerpts of Record. At the time the appellant's brief is filed, the appellant shall file five copies of the excerpts of record bound separately from the briefs. The appellant shall serve an additional copy of the excerpts on each of the other parties.

(b) Required Content of the Excerpts of Record. The excerpts of record shall include:

- (1) the indictment in criminal cases;
- (2) the judgment of interlocutory order appealed from;

- (3) any other orders or rulings (whether written or delivered orally) sought to be reviewed, and the final pretrial order, and also the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues;
- (4) any opinion, findings of fact or conclusions of law, whether written or delivered orally by the Superior Court; and
- (5) any jury instructions given or refused which presents an issue on appeal.

(c) Additional Items Which Shall Be Included In The Excerpts Of Record In Appropriate Circumstances.

- (1) Transcript: When an appeal is based upon a challenge to the admission or exclusion of evidence or any other ruling or order, but not otherwise, a copy of the relevant pages of the transcript at which the evidence, offer of proof, ruling, or order and any necessary objection are recorded should be included.
- (2) Exhibits: When an issue raised on appeal is based on a written exhibit (including affidavits), but not otherwise, the relevant parts of the exhibits shall be included.

(d) Items Not To Be Included In The Excerpts Of Record. Except where they have independent relevance, the excerpts of record shall not include briefs or other memoranda of law filed in the Superior Court.

(e) Form of the Excerpts of Record. The documents which comprise the excerpts of record need not be certified as true copies, but if possible the Superior Court's "filed" stamp should appear on each document. The documents in the excerpts should be arranged by file date in chronological order. The five copies of the excerpts are to be reproduced on letter size white paper by any duplicating or copying process capable of producing a clear black image, and each copy must be bound at the top and must have a tan cover styled as described in Rule 32(a). The excerpts must be either paginated or the documents marked with tabs corresponding to the tab number of the documents in the clerk's record. The excerpts must include an index with a

description of the documents, exhibits and portions of the transcript contained therein and their corresponding page or tab numbers. The information on the front cover of the excerpts of record should be styled exactly as a brief except that the wording "Excerpts of Record" should be substituted for "Brief of Appellant."

(f) Appellee's Supplemental Excerpts of Record. If appellee believes that the excerpts of record filed by the appellant exclude items which should be included under this rule, the appellee may, at the time the appellee's brief is filed, file supplemental excerpts of record, prepared pursuant to this rule, which include the omitted items. Appellee shall file five copies of the supplemental excerpts of record. The appellee shall serve one copy of the supplemental excerpts on each of the other parties.

(g) Sanctions for Inclusion of Unnecessary Material in the Excerpts of Record. The Court in appropriate cases will impose sanctions against any attorney who vexatiously and unreasonably increases the cost of litigation by inclusion of unnecessary material in the excerpts of record. Counsel will be provided notice and have an opportunity to respond before sanctions are imposed.

(h) Prisoner Petitions Without Representation By Counsel. In cases involving petitions of prisoners not represented by counsel, the clerk of the Superior Court shall forward to the petitioner, within 21 days after the date the notice of appeal is filed, one copy of the documents to comprise the excerpts of the record.

#### RULE 31 - FILING AND SERVICE OF BRIEFS

(a) Time For Serving And Filing Briefs. The appellant shall serve and file a brief within 40 days after the date on which the certificate of record is filed. The appellee shall serve and file a brief within 30 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 14 days after service of the brief of the appellee, but, except for good cause shown, a reply brief must be filed at least 3 days before argument.

(b) Number Of Copies To Be Filed and Served. The original and four copies of each brief shall be filed with the Clerk, unless the Court by order in a particular case shall direct a lesser number, and one copy shall be served on counsel for each party separately represented.

(c) Consequence Of Failure To File Briefs. If an appellant fails to file a brief within the time provided by this rule, or within the time as extended, an appellee may move for dismissal of the appeal. If an appellee fails to file a brief, the appellee will not be heard at oral argument except by prior written permission of the Court.

(d) Extensions Of Time For Filing Brief. Extensions of time may be granted only upon written motion supported by a showing of diligence and substantial need, as follows:

The motion shall be filed before the expiration of the time prescribed for filing the brief, and shall be accompanied by an affidavit saying:

- (1) when the brief is due;
- (2) how many extensions have been previously granted;
- (3) whether previous requests for extensions have been denied wholly or in part;
- (4) the length of the requested extension;
- (5) the reasons an extension is necessary;
- (6) counsel's representation that counsel has exercised diligence and that the brief will be filed within the time requested; and
- (7) a statement that opposing counsel does or does not object to the extension or why the moving party has been unable to determine any such party's position.

(e) Late Filing Of Briefs. If an appellant fails to file a brief within the time allowed by Rule 31(a) or an extension thereof, the court may dismiss the appeal pursuant to Rule 31(c). A late brief may be filed only with the permission of the Court, on such conditions as the Court may order.

## RULE 32 - FORMS OF BRIEFS, APPENDICES AND OTHER PAPERS

(a) Form Of Briefs And Appendices. Briefs and appendices may be produced by standard typographic printing and by any duplicating or copying process which produces a clear black image on white paper. Carbon copies of briefs and appendices may not be submitted without permission of the Court, except in behalf of parties allowed to proceed in forma pauperis. All printed matter must appear in at least 11 point type on opaque, unglazed paper. Briefs and appendices shall be bound in volumes having pages not exceeding 8 1/2 by 11 inches and type matter not exceeding 6 1/2 by 9 1/2 inches, with double spacing between each line of text.

If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers to be described are available, the cover of the brief of an appellant should be blue; that of the appellee, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of an excerpt, if separately printed should be tan. The front covers of the briefs, if separately printed, shall contain: (1) the name of the court and the number of the case; (2) the title of the case [see Rule 12(a)]; (3) the nature of the proceeding in the court (e.g., Appeal) and the name of the court below; (4) the title of the document (e.g., Brief for Appellant); and (5) the names and addresses of counsel representing the party on whose behalf the document is filed.

(b) Form Of Other Papers. Petitions for re-hearing shall be produced in a manner prescribed by subdivision (a). Motions and other papers may be produced in like manner, or they may be typewritten upon opaque, unglazed paper 8 1/2 by 11 inches in size. Lines of typewritten text shall be double spaced. Consecutive sheets shall be attached at the left margin.

A motion or other paper addressed to the Court shall contain a caption setting forth the name of the Court, the title of the case, the file number, and a brief descriptive title indicating the purpose of the paper.

## RULE 33 - PRE-HEARING CONFERENCE

The Court may direct the attorneys for the parties to appear before the Court for a pre-hearing conference to consider the

simplification of the issues and such other matters as may aid in the disposition of the proceeding by the Court. The Court shall make an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceeding, unless modified to prevent manifest injustice.

#### RULE 34 - ORAL ARGUMENT

(a) In General. Oral argument shall be allowed in all cases unless the panel of three justices, after examination of the briefs and record, shall be unanimously of the opinion that oral argument is not needed.

Oral argument will be allowed unless:

- (1) the appeal is frivolous; or
- (2) the dispositive issue or set of issues has been recently authoritatively decided; or
- (3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument.

When a case has been classified by the Court for submission without oral argument, the Clerk shall give the parties notice in writing of such action. The parties shall have seven days from the date of the Clerk's letter in which to file a statement setting forth the reasons why, in the opinion of the parties, oral argument should be heard.

(b) Notice Of Argument; Postponement. The Clerk shall advise all parties of the time and place for oral argument. A request for postponement of the argument or for allowance of additional time must be made by motion filed reasonably in advance of the date fixed for hearing.

(c) Order And Content Of Argument. Each party is entitled to argue for a period of time set by the Court. Appellant, only, may reserve a portion of his or her time for rebuttal. Appellant is entitled to open and conclude the argument. Counsel will not be permitted to read at length from briefs, records or authorities.

(d) Cross And Separate Appeals. A cross or separate appeal shall be argued with the initial appeal at a single argument, unless the Court otherwise directs. If a case involves a cross appeal, the plaintiff in the action below shall be deemed the appellant for the purpose of this rule unless the parties otherwise agree or the Court otherwise directs. If separate appellants support the same argument, care shall be taken to avoid duplication of argument.

(e) Non-appearance Of Parties. If appellee fails to appear to present argument, the Court will hear argument on behalf of appellant, if present. If appellant fails to appear, the Court may hear argument on behalf of appellee, if present. If neither party appears, the case will be decided on the briefs unless the Court shall otherwise order.

(f) Submission On Briefs. By written agreement of the parties, a case may be submitted for decision on the briefs, but the Court may direct that the case be argued.

(g) Use of Physical Exhibits At Argument; Removal. If physical exhibits other than documents are to be used at the argument, counsel shall arrange to have them placed in the courtroom before the Court convenes on the day of the argument. After the argument counsel shall cause the exhibits to be removed from the courtroom unless the Court otherwise directs. If exhibits are not reclaimed by counsel within ten days after notice is given by the Clerk, they shall be destroyed or otherwise disposed of as the Clerk shall think best.

#### RULE 35 - RESERVED

#### RULE 36 - ENTRY OF JUDGMENT

The filing of a judgment by the Clerk constitutes entry of the judgment. The Clerk of this Court shall immediately prepare, sign and enter the judgment following receipt of the opinion of the Court unless the opinion directs settlement of the form of the judgment, in which

event the Clerk shall prepare, sign and enter the judgment following final settlement by the Court. If a judgment is rendered without an opinion, the Clerk shall prepare, sign and enter the judgment following instruction from the Court. The Clerk shall immediately mail to all parties a copy of the opinion, if any, or of the judgment if no opinion was written, and notice of the date of entry of the judgment. Service by mail is complete upon mailing.

In addition, the Clerk of this Court shall mail a courtesy copy of the opinion of the Supreme Court to the Superior Court. The Superior Court can act upon the judgment when the mandate is issued.

#### RULE 37 - INTEREST ON JUDGMENTS

Unless otherwise provided by law, if a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment was entered in the Superior Court. If a judgment is modified or reversed with a direction that a judgment for money be entered in the Superior Court, the mandate shall contain instructions with respect to allowance of interest.

#### RULE 38 - DAMAGES FOR FRIVOLOUS APPEAL/SANCTION

(a) If this Court determines that an appeal is frivolous, it may award just damages and single or double costs to the appellee, including reasonable attorney's fees.

(b) Every brief, motion, and any other pleading of a party represented by an attorney shall be signed by an attorney of record. A party who is not represented by an attorney shall sign the same. The signature of an attorney or party constitutes a certification by the signer that the signer has read the brief, motion, or any other pleading; that to the best of the signer's knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law (or a good faith argument for the amendment or repeal of existing law can be made) and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a brief, motion, or any other pleading is signed in violation of this rule, the Court, upon motion or upon its own initiative, shall impose upon the signer, a represented party, or both, an appropriate sanction, which may include an order to

pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the brief, motion, or any other pleading, including a reasonable attorney's fee.

#### RULE 39 - COSTS

(a) To Whom Allowed. Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or ordered by the Court; if a judgment is affirmed, costs shall be taxed against the appellant unless otherwise ordered; if a judgment is reversed, or affirmed in part or reversed in part, or is vacated, costs may be allowed as ordered by the Court.

(b) Costs Taxable On Appeal. Costs incurred in the preparation and assembling of the record, the cost of the transcript, if necessary for the determination of the appeal, the premiums paid for cost of supersedeas bonds or other bonds to preserve rights pending appeal, and the fee for filing the notice of appeal shall be taxed as costs of the appeal in favor of the party entitled to costs under this rule.

(c) Bill Of Costs: Objections, Costs To Be Inserted In Mandate Or Added Later. A party who desires such costs to be taxed shall state them in an itemized and verified bill of costs which the party shall file with the Clerk, with proof of service, within 14 days after the entry of judgment. Objections to the bill of costs shall be filed within 10 days of service on the party against whom costs are to be taxed unless the time is extended by the Court. The Clerk shall prepare and certify an itemized statement of costs taxed in this Court for insertion in the mandate, but the issuance of the mandate shall not be delayed for taxation of costs and if the mandate has been issued before final determination of costs, the statement, or any amendment thereof, shall be added to the mandate upon request by the Clerk of this Court to the clerk of the Superior Court. An order regarding costs may be made by one justice.

(d) Request For Attorney's Fees. A request for attorney's fees in compliance with Rule 28(m) shall be filed with the Clerk of this Court, with proof of service, within 30 days after the entry of the Court's opinion, unless a timely petition for re-hearing has been filed, in which case a request for attorney's fee shall be filed within 14 days after the Court's disposition of such petition. The request

must be filed separately from any bill of cost. Any party from whom attorney's fees are requested may file an objection to the request. The objection shall be filed with the Clerk, with proof of service, within 14 days after service of the request.

#### RULE 40 - PETITION FOR RE-HEARING

(a) Time For Filing; Content; Answer; Action By Court If Granted. A petition for re-hearing may be filed within 14 days after entry of judgment unless the time is shortened or enlarged by order. The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the Court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. Oral argument in support of the petition will not be permitted. No answer to a petition for re-hearing will be received unless requested by the Court, but a petition for re-hearing will ordinarily not be granted in the absence of such a request. If a petition for re-hearing is granted the Court may make a final disposition of the cause without re-argument or may restore it to the calendar for re-argument or re-submission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(b) Form Of Petition, Length. The petition shall be in a form prescribed by Rule 32(a), and copies shall be served and filed as prescribed by Rule 31(b) for the service and filing of briefs. Except by permission of the Court, a petition for re-hearing shall not exceed 15 pages.

#### RULE 41 - ISSUANCE OF MANDATE; STAY OF MANDATE

(a) Date of Issuance. The mandate of the court shall issue 31 days after the entry of judgment, unless the time is shortened or enlarged by order. The timely filing of a petition for re-hearing will stay the mandate until disposition of the petition unless otherwise ordered by the Court. If the Petition is denied, the mandate shall issue 7 days after entry of the order denying the petition unless the time is shortened or enlarged by the order.

(b) Stay Of Mandate Pending Appeal To The Ninth Circuit. A stay of the mandate pending appeal to the Ninth Circuit pursuant to

Section 403 of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America may be granted upon motion, reasonable notice of which shall be given to all parties. The stay shall not exceed 30 days unless the period is extended for cause shown. If during the period of the stay there is filed with the Clerk of this Court a notice from the Clerk of the Ninth Circuit that the party who has obtained the stay has filed an appeal in that Court, the stay shall continue until final disposition by the Ninth Circuit. Upon the filing of a copy of an order or opinion of the Ninth Circuit denying the appeal the mandate shall issue immediately. A bond or other security may be required as a condition to the grant or continuance of a stay of the mandate.

(c) Earlier Issuance of Mandate. The mandate of the Court may issue earlier than 31 days after entry of judgment, if: (1) the parties stipulate in writing for an earlier issuance of the mandate, or (2) there is no federal issue giving rise to an appeal pursuant to section 403 of the Covenant, and no petition for re-hearing is timely filed with the Court, or such petition has been disposed of.

#### RULE 42 - DISMISSALS

(a) Dismissal In The Superior Court. If an appeal has not been docketed in this Court, the appeal may be dismissed by the Superior Court upon the filing in that Court of a stipulation for dismissal signed by all the parties, or upon motion and notice by the appellant.

(b) Dismissal In The Supreme Court. If the parties to an appeal or other proceeding shall sign and file with the Clerk of this Court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the Clerk shall enter the case dismissed, but no mandate or other process shall issue without an Order of the Court. An appeal may be dismissed on motion of the appellant upon such terms as may be agreed upon by the parties or fixed by the Court.

(c) Dismissal For Failure to Prosecute. When an appellant fails to file the record or brief on time, pay the docket fee, or otherwise comply with the rules requiring the processing of appeals, this Court may dismiss the appeal. The Court may take other appropriate actions, including the imposition of disciplinary or monetary sanctions, on those who failed to prosecute the appeal.

## RULE 43 - SUBSTITUTION OF PARTIES

(a) Death Of A Party. If a party dies after a notice of appeal is filed or while a proceeding is otherwise pending in this Court, the personal representative of the deceased party may be substituted as a party on motion filed by the representative or by any party with the Clerk of this Court. The motion of a party shall be served upon the representative in accordance with the provisions of Rule 25. If the deceased party has no representative, any party may suggest the death on the record and proceedings shall then be had as this Court may direct. If a party against whom an appeal may be taken dies after entry of a judgment or order in the Superior Court but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed substitution shall be effected in this Court in accordance with this subdivision. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by that party's personal representative, or, if there is no personal representative, by that party's attorney of record within the time prescribed by these rules. After the notice of appeal is filed substitution shall be effected in this Court in accordance with this subdivision.

(b) Substitution For Other Causes. If substitution of a party in this Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in subdivision (a).

(c) Public Officers: Death Or Separation From Office.

(1) When a public officer is a party to an appeal or other proceeding in this Court in an official capacity and during its pendency dies, resigns or otherwise ceases to hold office, the action does not abate and the public officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(2) When a public officer is a party to an appeal or other proceeding in an official capacity, that public officer may be described as a party by the public officer's official title rather than by name; but the court may require the public officer's name to be added.

#### RULE 44 - CONSTITUTIONALITY OF STATUTE

Any party who raises an issue of the constitutionality of a CNMI statute or regulation, in any case in which the CNMI government (or its agencies and instrumentalities) is not a party shall, upon filing of the record, give immediate notice to the Attorney General of the existence of such issue in such case.

#### RULE 45 - DUTIES OF CLERKS

(a) General Provisions. Neither the Clerk nor any Deputy Clerk may practice as an attorney or counselor in any court while continuing in office. The office of the clerk, with the Clerk or a Deputy in attendance, shall be open during business hours on all days except Saturdays, Sundays and legal holidays.

(b) The Docket; Calendar; Other Records Required. The Clerk shall maintain a docket in such form as may be prescribed by this Court. The Clerk shall enter a record of all papers filed with the Clerk and all process, orders and judgments. An index of cases contained in the docket shall be maintained as prescribed by this Court.

The Clerk shall prepare, under the direction of the Court, a calendar of cases awaiting argument.

The Clerk shall keep such other books and records as may be required by the Court.

(c) Notice Of Orders Or Judgments. Immediately upon the entry of an order or judgment the Clerk shall serve by mail a notice of entry upon each party to the proceeding together with a copy of any opinion respecting the order or judgment, and shall make a note in the docket of the mailing. Service on a party represented by counsel shall be made on counsel. Service by mail is complete upon mailing.

(d) Custody Of Records And Papers. The Clerk shall have custody of the records and papers of the Court. The Clerk shall not permit any original record or paper to be taken from the Clerk's custody except as authorized by the orders or instructions of the Court. Original papers transmitted as the record on appeal shall upon disposition of the case be returned to the Superior Court. The Clerk shall preserve copies of briefs and appendices and other printed papers filed.

RULE 46 - RESERVED.

RULE 47 - RULES BY SUPREME COURT

In all cases not provided for by rule, this Court may regulate its practice in any manner not inconsistent with these rules.

RULE 48 - OTHER MATTERS

(a) This Supreme Court shall be deemed to be in continuous session.

(b) Any justice, including a justice designated from among the Special Judges, may sign any order of this Court relating to any case or proceeding pending before it.

(c) In case of a vacancy in the office of Chief Justice, or if the Chief Justice is ill, absent or otherwise unable to serve, the senior of the Associate Justices available shall serve temporarily in his/her stead. Seniority for such purpose shall be determined by the length of current service on this Court.

RULE 49 - WITHDRAWAL OF COUNSEL

An attorney may withdraw as counsel of record and a party may discharge his/her counsel of record only upon motion and an order of this Court. Prior notice of the motion shall be given to the client, or the counsel, as the case may be. For good reason, this Court may deny such motion.



b. If the answer is "no", state the date of last employment and the amount of salary and wages per month which you received.

2. Have you received within the past twelve months any money from any of the following sources?

- a. Business, profession or other form of self-employment?  Yes  No
- b. Rent payments, interest or dividends?  Yes  No
- c. Pensions, annuities or life insurance payments?  Yes  No
- d. Gifts or inheritances?  Yes  No
- e. Any other sources?  Yes  No

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in checking or savings accounts (include any funds in prison accounts)?  Yes  No

If the answer is "yes", state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothings)?  Yes  No

If the answer is "yes", describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.



I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed.

A copy hereof was this day mailed with first class postage fully pre-paid thereon to:

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney For \_\_\_\_\_





I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Executed on \_\_\_\_\_  
(Date) (Signature of Applicant)

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

-----

IT IS HEREBY ORDERED that the application is granted. Let the applicant proceed without pre-payment of costs or fees or the necessity of giving security therefor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Justice  
Supreme Court