



THE JUDICIARY



ANNUAL REPORT ■ 2009



The Judiciary of the Northern Mariana Islands

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Meeting the Challenge

Thank you for your interest in the NMI Judicial Branch's 2009 annual report. The administration of justice is a challenge when times are good and resources are plentiful. It is in hard times, however, when pocket books are empty and the stresses on our social fabric are most noticeable that people need an efficient means to justice more than ever. The Justices and Judges of the CNMI Judiciary and its staff engage in the resolution of criminal and civil matters concerning the people living in the Commonwealth with the same resolve as when head count and operating budgets were larger, but the effect of sustained budgetary under allotments is and will be felt across the broad spectrum of individuals and groups in our community who seek resolution of civil issues, elimination of criminal dangers and protection through the courts for themselves, their family and children.

Most government agencies can explain the importance of their work, but how many can rightfully declare it is basic to governance? The total operating budget of the Judiciary has declined 46% since 2000 with total Judiciary expenditures representing only 2.3% of Total FYI 2009 CNMI Government Appropriations. (See charts below.)

Smaller budgets have repercussions on the administration of justice in ways that few fully appreciate until personally encountered. For example, a reduction of staff numbers and of court hours can impact upon the processing of child support payments, delay the issuance of protective orders and the setting of temporary and permanent support and custody / visitation orders. Complicated settlement of estates, often a long process under the best of conditions, can be further prolonged, delaying transfers of property and distributions to surviving family members. Civil cases take longer to adjudicate, delaying judgment liens and the processing of garnishments, for example.

Criminal cases feel the impact of fewer Judicial Branch resources, too. There can be postponements in criminal hearings, warrant updates, probation hearings and in the entering of no-contact orders. Importantly, budget reductions can result in the transmission delay of criminal case histories and abuse protection orders to the Department of Public Safety.

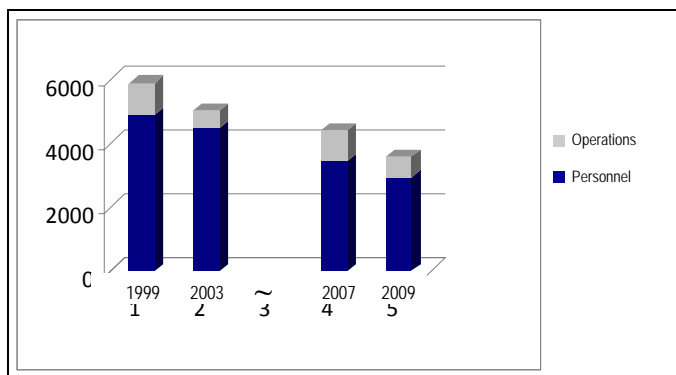
Whereas, the Judiciary is the steward of the justice system it has the special responsibility of maintaining and strengthening the rule of law, which not only separates us from tyranny and lawlessness, but provides the foundation for economic development, the protection of human rights, and the prevention of crime and corruption. Our democracy and collective ideals will consistently be furthered through the provision of adequate resources to the Judiciary for facilities, equipment, professional staff and security.

In the pages that follow I submit to you our report on the challenges encountered and met by the Judiciary and staff during 2009.

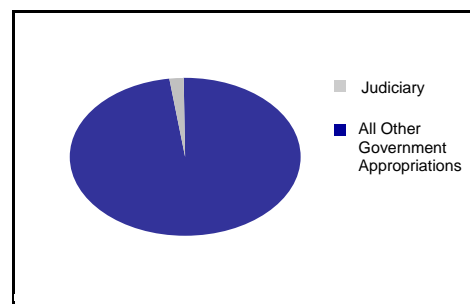
Miguel S. Demapan
Chief Justice

THE MEANS

The Judiciary: Indispensable to the function of governing
Ten Year Reduction in the Judiciary's Total Budget
1999 - 2009; \$5.891 Million to \$3.570 Million; 46% Decline



Total Judiciary Expenditures represented 2.3% of total FYI 2009 CNMI Government Appropriations



Justices of the Supreme Court



MIGUEL S. DEMAPAN
Chief Justice

Second Term: July 16, 2007 to July 15, 2015
Retention Election: November 3, 2007
First Term: July 16, 1999 to July 15, 2007
Oath of Office: July 16, 1999
Confirmed: July 15, 1999
Appointed: June 29, 1999

ASSOCIATE JUSTICE
Supreme Court

Term: July 9, 1998 to July 15, 1999
Oath of Office: July 16, 1998
Confirmed: July 9, 1998
Appointed: July 2, 1998

ALEXANDRO C. CASTRO
Associate Justice

Second Term: July 9, 2006 to July 8, 2014
Retention Election: November 3, 2007
First Term: July 9, 1998 to July 8, 2006
Oath of Office: July 9, 1998
Confirmed: July 9, 1998
Appointed: July 2, 1998



JOHN A. MANGLONA
Associate Justice

Second Term: May 9, 2008 to May 8, 2016
Retention Election: November 3, 2007
First Term: May 9, 2000 to May 8, 2008
Oath of Office: May 9, 2008
Confirmed: May 8, 2008
Appointed: April 13, 2000



Judges of the Superior Court

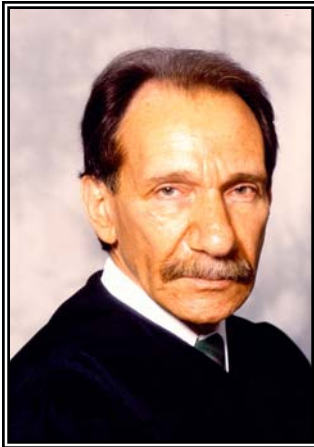
ROBERT C. NARAJA Presiding Judge

Second Term: March 28, 2009 to March 27, 2015
Retention Election: November 3, 2007
First Term: March 28, 2003 to March 27, 2009
Oath of Office: March 28, 2003
Confirmed: March 28, 2003
Appointed: March 14, 2003



ASSOCIATE JUDGE Superior Court

Term: November 20, 2001 to March 27, 2003
Oath of Office: November 20, 2001
Confirmed: November 15, 2001
Appointed: October 23, 2001

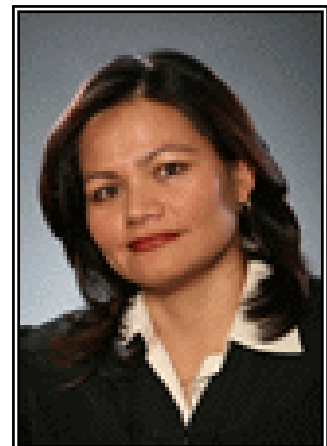


DAVID A. WISEMAN Associate Judge

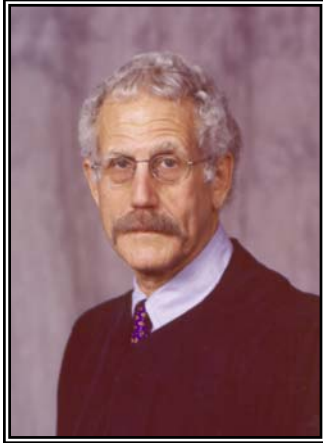
Second Term: March 14, 2007 to March 13, 2013
Retention Election: November 5, 2005
First Term: March 14, 2001 to March 13, 2007
Oath of Office: March 14, 2001
Confirmed: March 8, 2001
Appointed: January 5, 2001

RAMONA V. MANGLONA Associate Judge

Second Term: May 31, 2009 to May 30, 2015
Retention Election: November 3, 2007
First Term: May 31, 2003 to May 30, 2009
Oath of Office: May 30, 2003
Confirmed: May 30, 2003
Appointed: May 20, 2003



Judges of the Superior Court



KENNETH L. GOVENDO
Associate Judge

Second Term: June 20, 2009 to June 19, 2015
Retention Election: November 3, 2007
First Term: June 20, 2003 to June 19, 2009
Oath of Office: June 20, 2003
Confirmed: May 30, 2003
Appointed: May 20, 2003

PERRY B. INOS
Associate Judge

First Term: September 22, 2008 to September 21, 2014
Oath of Office: September 22, 2008
Confirmed: September 18, 2008
Appointed: August 29, 2008



2009 Year In Review



Memorial Service Held for the Late Chief Justice Marty W.K. Taylor

On March 5, 2009, a memorial service was held in the Supreme Court's courtroom and Atrium of the Guma' Husistia Iimwal Aweewe House of Justice in Susupe by the CNMI Judiciary in honor of the late Chief Justice Marty W. K. Taylor of who passed away on February 18, 2009.

Chief Justice Marty W.K. Taylor was born on October 2, 1937 in Vancouver, British Columbia, Canada and served as Chief Justice of the Supreme Court of the Commonwealth of the Northern Mariana Islands from 1995 to 1998. He retired from his distinguished service as Chief Justice on December 5, 1998, and was honored by a resolution of the 11th Commonwealth Legislature upon his retirement. Altogether, Chief Justice Taylor dedicated twenty-three years of his life to serving the people of the Commonwealth. He had an extraordinary professional life and career, but was just as proud of his personal life. Chief Justice Taylor considered the Commonwealth his home. A dedicated family man, he often said that nothing pleased him more than spending time with his loved ones. He had a wonderful sense of humor, a positive outlook on life, and everyone he met was guaranteed to leave his presence with a smile on their face.

Workforce Investment Act in Action

Seven young people came to work during the summer at the CNMI's Superior and Supreme Courts under the Workforce Investment Act of 1998 (WIA) provides for nationwide federally funded locally administered job skills and work programs that have real payoffs for the

young people employed and their employers. Under the tutelage of Wayne Archibald and Michael Villacrusis, Systems Administrator and Computer Specialist for the Courts' Information Systems, five of the local high school students enhanced their skills performing various tasks for the court that IT personnel would encounter on a daily basis. The other two young



people worked at the Law Revision Commission and involved with the scanning, sorting, and important work of legal document preservation, in addition to Web editing. Ms. Edith DeLeon Gerrero, Executive Director for the Workforce investment Agency, funded by the WIA Act, makes the point that her organization is private sector focused, centered on the Power of "E3" – Education, Employment and Economic Development.

Probation Proclamation Signing and the Annual Probation, Parole and Community Supervision Officers' Week

Governor Benigno R. Fitial and Chief Justice Miguel S. Demapan marked July 19-25 as the 9th Annual Probation, Parole and Community Supervisions Week at a proclamation signing held at the House of Justice. The proclamation recognized the faithful service of correction professionals and encouraged all citizens to honour and recognize the achievements of Probation, Parole and Community Corrections officers during the weeklong celebration. Officers and their service providers presented exhibits featuring law enforcement related activities in the Supreme Court lobby. The theme was "A Force for Positive Change."

The community service providers participating in the 2009 activities included the Northern Marianas College-Cooperative Research Extension and Education Services, Division of Youth Services, Department of Community and Cultural Affairs, Community Guidance Center and other agencies.

Court Services Enhanced through ARRA Grant

Through the FY 2009 Northern Mariana Islands Recovery Act: Edward Bryne Justice Assistance Grant, the CNMI Judicial Branch was able to employ eleven individuals whose contributions significantly enhanced the level of service provided by the courts. Two data entry clerks, Kristy Diaz and Sabrina Dela Cruz attended to Superior court records. A Supreme Court clerk, Amale Obeid, with the court for a year, helped to move cases through the court's docket. John Demapan's computer specialist skills were helpful with respect to both software and hardware improvements. Chief Marshal Anthony Benavente and seven deputy marshals for Saipan and one each for Rota and Tinian came on board and provided security for the CNMI courthouses, justices, judges, judicial staff and court patrons that enter the courthouse on a daily basis. The marshals were fully equipped by means of the monies provide by the grant and received three sets of important job-related training: Officer Survival, Heart Saver



CNMI Judiciary Marshals complete training; pictured with instructors Sgt. Joey Terlaje, Director of Courts Tracy M. Guerrero, and Guam Chief Marshal Frank Leon Guerrero. The marshals played an important security and dignitary protection role during the Pacific Judicial Conference held in late October 2009.

CPR Course and CERT (Community Emergency Repose Team), prisoner escort, handcuffing techniques and tactical entry training.

Statement of Support Signing: Employer Support of the Guard and Reserve

Chief Justice Miguel S. Demapan signed a STATEMENT OF SUPPORT for the Employer Support of the Guard and Reserve (ESGR) organization on Tuesday, September 22 at the CNMI House of Justice. The statement was a reminder that women and men of our community have put their lives on the line defending the liberties and freedoms we enjoy. Seventy (70) members of the 100th Battalion Command 442nd Infantry had recently returned to Saipan on leave from their station in Kuwait.



Chief Justice Demapan said at the occasion, "The entire community shares in the sacrifice. Families and employers especially should be recognized and appreciated for their support of our women and men in harms way."

State of the Judiciary Address

Chief Justice Miguel S. Demapan delivered the State of the Judiciary Address on Thursday, October 15, 2009, in the Supreme Court Courtroom at the Guma' Hustisia-limwal Aweewe - House of Justice in Susupe. In attendance were Governor Benigno Fitial and Lieutenant Governor Eloy Inos, House Speaker Arnold Palacios, Senate President Pete Reyes along with other community leaders.

In his speech, "From Federalization to Recession: The Courts in Difficult Times," the Chief Justice discussed the Judiciary's achievements, its containment of expenses and its completion of projects in the last year, including the implementation of resource and time saving technology, such as

e-filing, which has become an important tool for increasing judicial efficiency. Chief Justice Demapan observed in his speech that effective and reliable courts become even more important in times when our government and the private sector are hard pressed financially; "public trust in the judiciary's work is a critical component of the engine that keeps our Commonwealth moving forward."



Chief Justice Miguel S. Demapan pictured with the Justices and Judges of the CNMI Judiciary along with Governor Benigno R. Fitial and Lt. Governor Eloy S. Inos.

NMI Judiciary to Form Judicial Council to Effect Better Overall Court Administration

Efforts to unify and streamline the CNMI Supreme and Superior Court's administrative functions took an important step forward with the issuance of Proposed Rule of Appellate Procedure 60. The Proposed Rule establishes a Judicial Council, which is the first step in an ongoing effort by the judicial branch to reorganize its administrative structure.

One of the early undertakings of the Judicial Council is expected to be a review of organizational plans which reflect a regrouping of current staff to allow for better accountability and resource management. The plan is designed to avoid the extra costs of duplicative services by maintaining non-judicial services in a unified administrative office which serves all courts.

The Proposed Rule and the associated administrative reorganization stem from an August 2009 report by the National Center for State Courts (NCSC) intended to help the Judicial Branch improve its delivery of legal services, among other things, conducting a review of the Judiciary's internal administration and providing a report that evaluated the Judiciary's organizational structure.

The report concluded that the Supreme and Superior Courts should combine many of their non-judicial functions into a unified administration headed by a Judicial Council.

The Pacific Judicial Council Meets on Saipan

The Pacific Judicial Council conducted their 2009 Biennial Conference at the Fiesta Resort and Spa on Saipan October 25-29th. Chief Justice Miguel S. Demapan and the CNMI Judiciary were host to the judiciaries of Guam, the Republic of Palau, American Samoa, and the Federated States of Micronesia. The four day agenda included presentations and interactive discussions on subjects such as the handling of *pro se* or self-represented litigation, ethics, the professional responsibilities of attorneys, and the courts as cultural mediators in domestic violence. Presenters included Richard Zorza Esq., a national figure on the topic of self-represented litigants, the Honorable Michael Keasler, a judge on the Texas Court of Criminal Appeals and a former faculty of the National Judicial College, and the Honorable Robert J. Torres, Chief Justice, Guam Supreme Court.



Chief Justice Miguel S. Demapan delivering his opening remarks at the PJC 2009 Biennial Conference.





Pictured left to right: Associate Judge Ramona V. Manglona, CNMI Superior Court, Mrs. Robert Torres, wife of Guam Supreme Court Chief Justice, Chief Judge Frances Tydingco-Gatewood, U.S. District Court of Guam, and Director of Courts Tracy M. Guerrero, CNMI Judiciary.

Airconditioning Retrofit Grant Received

The Guma Hustisia Air Conditioning Retrofit Grant totaling \$750,000 was obtained through the CNMI Department of Commerce on behalf of the Energy Division with funds from the American Recovery and Reinvestment Act of 2009. Work under the grant would involve the removal of the judicial complex's existing and aged chiller and condensing units and provide for the installation and commission of new chiller and outdoor condensing units. The bidding process and work was expected to be completed in late 2010 / early 2011. In the meantime intermittent fixes were anticipated to be needed to the increasingly trouble prone air-conditioning system which originally went into use in 1998.



Condensing unit coils soon to be replaced at the Guma Hustisia.

2009 Professional Development

Staff training is invaluable and key to the success of the Judiciary. Training helps update and improve employees' skills, their quality of work and productivity. In 2009, employees in various divisions throughout the Judiciary participated in the following training programs:

Month	Training	Trainer
January	Justware Training	Jon Carver
February	Traffic Court Training	Associate Judge Ramona V. Manglona
	New Dawn Training for Associate Judge Ramona V. Manglona and Court Managers	New Dawn Training Consultants
March	CNMI Judiciary Professional Development Training	
August	American Probation & Parole Association Training Institute, Anaheim, California	
September	PJC Court Interpreter Conference, Guam	
	CERT Training (1st Session)	Department of Homeland Security
October	CERT Training (2nd Session)	Department of Homeland Security
	PJC Biennial Conference Saipan	



At the Fiesta Resort & Spa's Hibiscus Hall as the conference begins, left to right: Associate Judge David A. Wiseman, CNMI Superior Court, Associate Judge Vernon Perez, Superior Court of Guam, Associate Justice Alexandro C. Castro, CNMI Supreme



Chief Probation Officer Ursula I. Lifoifoi-Aldan seen here with staff of the Office of Adult Probation.

JUDICIARY COMPONENTS

Supreme Court

The Commonwealth of the Northern Mariana Islands (NMI) Supreme Court is the appellate court of the Northern Mariana Islands, with jurisdiction to hear appeals from final judgments and orders of the NMI Superior Court. All appeals from the NMI Supreme Court go directly to United States Supreme Court.

The NMI Supreme Court consists of three justices appointed by the Governor for a term of eight years. A justice wishing to serve another term must receive voter approval in a retention election.

The Supreme Court expanded its case tracking statistics to include “Administrative Orders” and “Bar Admission.” Administrative Orders are court orders dealing with day-to-day court operation and legal practice. They are not specific to a particular case. Bar Admissions include matters concerned with individuals’ ability to practice law before Commonwealth courts, either by taking the bar exam, through the government attorneys exception, or by application to be admitted pro hac vice or as a certified legal intern. Generally, Bar Admission matters do not lead to published opinion, but they may in certain instances.

Tracking these additional statistics provides a more complete picture of Supreme Court business. However, statistics still fail to capture much of the Supreme Court’s work. The Court’s continuous efforts to improve Judicial Branch efficiency, accessibility, and responsiveness, cannot be reduced to numbers.

Superior Court

The Superior Court is the Commonwealth's trial court, with general jurisdiction over civil and criminal proceedings. Five Commonwealth Superior Court judges preside in courtrooms in the Guma Hustisia in Susupe, Saipan; proceedings are also conducted monthly in Rota and Tinian courtrooms. The judges are appointed by the Governor and confirmed by the Commonwealth Senate. The term of office is six years. After the first and subsequent terms, a judge wishing to serve another term must receive voter approval in a retention proposition presented on a general election ballot.

If a position is vacant or a judge must disqualify himself from hearing a proceeding, the Chief Justice of the Commonwealth Supreme Court may designate an active or former justice or judge of the Commonwealth, any U.S. jurisdiction or certain Micronesian jurisdictions to serve as a judge pro tem. In addition, the Chief Justice may assign one or more to preside in a proceeding or serve for a specified period.

Commonwealth Superior Court proceedings are largely governed by Commonwealth court rules applying in various types of proceedings (e.g., the Commonwealth Rules of Criminal Procedure). Commonwealth Superior Court decisions may be appealed to the Commonwealth Supreme Court.

◆ *Office of the Clerk of Court - Superior Court* ◆

The Superior Court Office of the Clerk of Court's 2009 Annual Statistical Report presents up to date workload and performance data for the Superior Court. Working together with the court-related divisions (Office of Adult Probation, Family Court Division and Administrative Services Unit) has enabled the Office of the Clerk of Court to better service the general public. The Office of the Clerk of Court maintains the official records for the entire Superior Court and is the official recorder of documents for filings and appeals.

The report cover all court case types in calendar year 2009. In addition, cases are broken down by senatorial districts and their current status is also made available. Additional information such as cases on appeal as well as transcript assignments can also be found in this report. Statistics relative to each judge including cases assignments, bench trials and recusals is also a component of this report.

◆ *Family Court Division* ◆

The Family Court Division (FCD) continues to maintain a staff of two full time personnel – the Family Court Manager and the Family Court Coordinator. Their responsibilities include assisting the Family Court Judge in handling Family Court cases, assisting Pro Se, or self-represented, litigants through the court system, coordinating efforts with various family and juvenile justice service organizations, and maintaining assurance controls for enforcement orders. The FCD also oversees the following activities and projects to ensure court services remain easily accessible:

- **Pro Se services.** User-friendly services for self-represented or pro se litigants
- **Family Court Referral Services.** Assist clients with their referral orders as entered by the Judge
- **DNA Paternity Supervision.** Coordinate and oversee genetic testing for the speedy resolution of contested paternity cases
- **Separating Parent Program.** Programs intended to educate parents about the effects of divorce on children, cope with change, and increase communications skills between parents and children.
- **Juvenile Justice Task Force.** The FCD is the lead coordinator in all Juvenile Justice Task Force functions. The goal of the task force is to provide leadership, coordination, and resources to respond to juvenile delinquency and to prevent would-be offenders from entering the juvenile justice system.
- **Family Violence Task Force.** The FCD is a member of the Family Violence Task Force. Created in 1995, the FVTF network of government and non-governmental agencies that assists victims of domestic violence and sexual assault crimes. Members meet on a monthly basis to discuss activities and specific problem areas and successes of family violence services. The FCD continues to be an active member of this organization.
- **Juvenile Court Technical Assistance.** Due to grant funding from the Office of Juvenile Justice and Delinquency Prevention Program, through the Criminal Justice Planning Agency, the FCD supported and provided technical assistance and training for juvenile judges and FCD staff and enhanced their case management system capacity to integrate with the Juvenile Justice Information System.
- **Juvenile Justice Information System.** The FCD acquired the services of the Judiciary's systems administrator and worked in cooperation with the Division of Youth Services (DYS) to provide the framework for the implementation of the Juvenile Justice Information System.
- **Federal Grants.** With assistance from the Criminal Justice Planning Agency, the FCD continues to receive federal grants to support its projects.

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- **FCD Client Services.** The goal of the FCD Client Services Program is to assist families in crisis by improving current and offering additional services, training Judges and staff, and creating an accessible and comprehensive Pro Se Center.
- **Family Court Training and Support Program STOP VAWA.** The program's goal is to provide training opportunities to Superior Court Judges and staff on family and domestic violence trends, issues and strategies. The training will be used in the courtroom by assisting victims. Additionally, it will assist with the FCD's involvement in community programs and organizations.
- **Juvenile/Pre Trial Technical Assistance.** The goal of this program is to enhance the Court's capacity in handling juvenile cases by providing opportunities for specialized training to judges and staff and to continue collaborating with service providers and professionals by continuing to have special treatment meetings. Another goal is to enhance the Juvenile Justice Information System.
- **Discretionary Grant STOP VAWA.** The grant's primary goal is to ensure that a forum on the CNMI Domestic and Family Violence Prevention Act of 2000 will be conducted and that all stakeholders are invited to attend in the year 2010.

◆ Office of Adult Probation ◆

The CNMI Office of Adult Probation (OAP) encompasses law enforcement, social work, and community prevention oriented services for probation court ordered offenders, crime victims, and the community. Probation services consist of Administration Unit, Pre-Trial/Investigation Unit, Supervision Unit, and Alternative Sentence/Prevention Unit. OAP officers are trained law enforcement officers authorized to carry firearms and make arrests and are trained social workers. Their primary legal obligations are: public safety (enforcement of court orders), court reports (investigations, assessments, and status reports), and offenders' rehabilitation needs.

As part of the Criminal Justice System under the Superior Court, the OAP enforces public safety by aggressive enforcement of court orders of victims' compensation (restitution), stay away orders, fines, fees, community work service, drug/alcohol testing, court reports, investigations, revocation filings and offender rehabilitation. At the end of FY 2009, probation cases totaled 2,784.

Adult Probation continues to provide probation court report services: community supervision enforcement, investigation, assessment, and court appearance, house arrest and execute bench warrants notwithstanding staff shortage.

Adult Probation continues to provide preventive and offender services: conduct the monthly Probation Orientation Class and the quarterly Crime Prevention classes for offenders on community supervision and conduct target and random drug testing; community work service referrals, CGC (Community Guidance Center) referrals for drug substance abuse classes and treatment.

Adult Probation continues to be actively engaged in the planning process of the Criminal Justice Information System (CJIS), network with other CJIS Partnering Agencies. Probation is also a member of the LECC (federal and local law enforcement agencies), and meet with the law enforcement agencies on a quarterly basis.

2009 Key Success Services

Adult Probation continues to provide courtesy supervision and investigation services to other Pacific regional jurisdictions: Palau, Guam and FSM.

Adult Probation continues to support, attend, engage, involve and advance in the professional and in-service training development of its staff to become efficient and effective in the delivery of probation service responsibilities.

Adult Probation continues to be proactive by continuously exploring and engaging in innovative and Evidence Based programs and best practices. Such best practices incorporation has been in the area of staff training achievement in Cognitive Behavioral Therapy (CBT) dealing with offenders, understanding its civil liabilities, and in the process of acquiring risk assessment instrument tool.

Adult Probation continues to provide services to victims of crime; the delivery of apology letters, enforcement of stay away orders, victim notifications, restitution compensation; and participation at the Family Violence Task Force monthly meetings.

Adult Probation continues to be actively engaged in the registration of sex offenders under probation supervision. Active member of the Sex Offender Registration Administration Board (SORAB) together with the Department of Public Safety, Department of Corrections, CNMI Parole, DYS Juvenile Probation, and Office of the Attorney General. Assisted DPS to be in compliance with SORNA (Sex Offender Registration Notification Act), a federal requirement which if not met will result in the 10% CNMI reduction in the criminal justice federal funding until this requirement is met.

◆ *Office of the Commonwealth Recorder* ◆

The Office of the Commonwealth Recorder was established in the Commonwealth Superior Court by Public Law 3-64 in 1983. The Office is mandated to record and maintain documents pertaining to official Commonwealth land registration and other real estate, commercial, and personal property. It is also responsible for maintaining original records of Commonwealth vital statistics, such as certificates of birth, death, and marriage (before October 1, 2007 only). The Commonwealth Recorder's Office, as the central repository for all such records, provides public access to the information by indexing the same and providing duplication services pursuant to a fee schedule.

◆ *Administrative Services Unit* ◆

The Administrative Services Unit is a division under the trial court that handles various administrative accounts and certifies all asset management documents for the Office of the Presiding Judge. The division comprised of a staff of three that continued to, as in prior years, ensure the daily processing of finance and accounting matters. Revenue, fiduciary, and imprest accounts are those maintained by this division, using network connectivity tools such as the Department of Finance's JD Edwards Accounting System, Laserfiche Client, LexisNexis® E-File and Serve, and New Dawn's JustWare Case Management System. In addition to this, the division served as the primary collection point for all Judiciary fees and fiduciary assessments, and, the Department of Public Safety's Bureau of Motor Vehicle's fees and assessments.

Revenue Accounts. The division is responsible for a fund collection and receipt system that included maintaining a cashier station, handling all bookkeeping protocols, ensuring proper custody of funds, providing remittances to financial institutions, and issuing periodic reports on all collection. Funds collected included all pre- and post-trial court-imposed fees and fines and the Department of Public Safety's statutory fees and fines. All revenues were deposited into accounts held by the Department of Finance, which administered disbursements to other stakeholders. One of the largest recipients of such funds, for the Judicial Building Fund loan, was the NMI Retirement Fund.

Fiduciary Accounts. The division is responsible for the collection and disbursements of third-party, non-revenue funds that are subject to court supervision through trial court orders or other adjudication procedures. The funds include those for child support, bail, restitution, forfeitures, probate and heirship assets, etc. These funds continued to be held in trial court checking accounts totaling over a million dollars. Disbursements were made weekly, with recipients ranging from within our CNMI community, the Pacific region, and the continental United States.

Imprest Account. The division is responsible for the tracking of the trial court's operational and personnel encumbrances, expenses, and payments pursuant to fiscal year appropriations. All of the trial court's supplies, fleet, materials and services are certified and tracked pursuant to court practices and procurement regulations. A checking account, replenished periodically by the Commonwealth Treasurer in line with trial court allotments, is utilized in the disbursement of payments to vendors. Personnel costs, on the other hand, are reported to and processed by the Department of Finance. The budgetary limits in 2008 provided for a major challenge in this category of the trial court accounts.

Judiciary Administrative Office

The Judiciary Administrative Office is responsible for all non-judicial functions of Rota, Tinian, and Saipan court-houses. This includes security for court personnel and patrons and maintenance and infrastructure management for all court facilities. In addition, the JAO is responsible for the financial functions including purchasing, accounting, and internal controls as well as managing the human resources needs of the Supreme Court. The JAO is also responsible for maintaining the Judiciary's information systems and provides a wide array of technical and administrative support to both the Supreme and Superior Courts.

◆ *Marshal Service Unit* ◆

The Judiciary's Marshal Service Unit is charged with providing security for the justices, judges, court staff and court patrons. The MSU provides physical and electronic security monitoring of the Supreme Court, the five Superior Court courtrooms, and the interior and exterior of the Guma Hustisia/Imwal Aweewee/House of Justice. The Unit oversees what is now an outdated security system for the House of Justice's more than 69,000 square feet of area. The area of coverage encompasses three floors of surveillance activity: The basement, the ground floor and the second floor. Courtrooms, public access areas and other high traffic zones are monitored through a security system equipped with video cameras and tracking mechanism for door access readers. The computer and video applications complements the Unit's ability to carry out the courts safety protocol.

The Marshal Service Unit has been tasked to serve court orders and other processes to the Department of Public Safety, Department of Correction and to individual persons. In addition, the MSU has also been tasked to detain defendants with outstanding warrants issued by the trial courts for their arrest. The defendants were either detained at the Clerk of Court or inside of the courtrooms or thereby escorted to the Marshal's Office for processing and to await transport to the Department of Correction by DPS personnel.

◆ *Information Systems* ◆

The Judiciary's Information Systems Unit maintains and updates the entire computer network within the Judicial Branch and ensures that the integrity of the network remains sound and secure. The ISU constantly strives to keep pace with current technology, which in turn will enhance the quality of justice by improving the ability of the Judicial Branch to collect, process, and share information.

◆ *Facilities Management* ◆

The Judiciary's main facility, the Guma Hustisia/Imwaal Aweewee/House of Justice, was built in 1995 as a state of the art judicial complex. The Guma Hustisia houses the NMI's Supreme Court and Superior Court, as well as the Law Revision Commission and Larry Hillbloom Memorial Law Library. However, after 13 years the Guma Hustisia requires major investments, including the replacement or repair of key capital infrastructure assets. Much of our electronic equipment was damaged or destroyed entirely by previous power outages. The goal of judicial branch to enhance the quality of justice requires adequate physical infrastructure meeting the needs of the CNMI public, the branch, and its justice and community partners. These improvements are essential to ensure business continuity and to maintain the integrity of the Guma Hustisia as a state of the art facility where the rule of law will continue to be upheld in the Marianas. Many necessary improvements including the much needed roof repairs for the Guma Hustisia continued to be delayed.

Law Revision Commission

◆ *Introduction and Mission Statement* ◆

The Commonwealth Law Revision Commission (“Commission”) is an independent judiciary agency that is responsible for compiling, editing, and codifying all the various laws of the CNMI into an organized system with the mission of making them available to the public. The Commission was changed in 1983 from a temporary to a permanent organization that was first established to compile and publish Commonwealth statutes and recommend legislation. In 1993, the Commission’s mandated duties were expanded when it was reorganized and transferred from the legislative branch to the judicial branch.

The Commission’s work of compiling, editing, and codifying all the CNMI’s various statutes, judicial opinions, and regulations into an organized system and providing access to them is vital for the existence of a democratic society and its success. Having the CNMI’s laws compiled, updated, and available in an organized system also informs potential investors of the CNMI’s sophistication and provides assurance that their rights will not be trampled.

The office, as we know it today, was created by 1 CMC §§ 3801-3810. The Commonwealth Law Revision Commission is composed of a board and an office. The administrative and daily operations are carried out by the Commission office through the Executive Director appointed by the Chief Justice, as Chairman of the Commission.

Law Revision Commission Staff (2009)

Janet R. Labios, Publications Clerk
Albert A. Hicking, Executive Assistant
Sheila N. Trianni, Staff Attorney
Heather L. Kennedy, Executive Director

2009 COMMISSION MEMBERS

Chief Justice Miguel S. Demapan, Chairman
Senator Paterno S. Hocog
Representative Rosemond B. Santos
Attorney General Edward T. Buckingham
CNMI Bar Representative Bruce L. Mailman

COMMISSION PUBLICATIONS

The Commission carries out its statutory responsibilities by publishing the laws from the legislative, judicial, and executive branches into the following three major legal publications: Commonwealth permanent public and local laws in the **Northern Mariana Islands Commonwealth Code**; Commonwealth Supreme Court decisions in the **Northern Mariana Islands Reporter series**; and Commonwealth rules and regulations in the **Northern Mariana Islands Administrative Code**. The Commission also provides free and timely access to the CNMI Constitution, public and local laws, judicial opinions, court rules, and other related general information over its internet website at <http://www.cnmilaw.org>.

The **Northern Mariana Islands Commonwealth Code** contains public laws as codified in statute form by the Commission. In 2009, the Commission updated the Code to ensure the timely release of the supplement in early 2010. The cumulative update contains all codified statutes (public and local laws) through December 31, 2009.

The **Northern Mariana Islands Reporter series**, which contains the decisions of the CNMI Supreme Court, currently spans six volumes. Slip opinions from 2003 to the present are readily accessible on the Commission's website free-of-charge and are searchable using the built-in search engine on the home page.

In 2009 through 2010, the Commission has been working on an update to its NMI Reporter series (Supreme Court decisions) with a digest and Reporter Volume 7.

An on-going project that the Commission will complete in 2010 is a comprehensive digest of CNMI case law. The digest will allow legislators, judges, lawyers and the community to go to one publication to find cases published in volumes 1 through 3 of the Commonwealth Reporter series and volumes 1 through 6 of the NMI Reporter series. This combined digest will represent the spectrum of CNMI case law with precedence starting in 1979, and will eliminate the current practice of having to consult four separate decision digests. Case law research



Above: The three major legal publications produced by the Law Revision Commission. From left: N.M.I. Administrative Code, Commonwealth Code, and N.M.I. Reporter series.

will be greatly enhanced and simplified by this cumulative digest.

The **Northern Mariana Islands Administrative Code** (“NMIAC”) contains all CNMI rules and regulations promulgated through the CNMI Administrative Procedure Act. Supreme Court Administrative Rule No. 2009-ADM-0001-RUL, issued on March 17, 2009, recognizes the NMIAC as the official source of CNMI rules and regulations and requires citation to the NMIAC in all court filings.

As with the statutory code, the NMIAC's update supplements are produced entirely in-office and on-demand which cuts costs and simplifies the process for keeping both codes current. This publication is updated through December 31, 2008. The Commission hopes that its budget request for a staff attorney to complete future updates to the NMIAC will be approved. Nevertheless, the Commission will continue to post and regularly update the NMIAC update table on the Commission's website so that users will still be able to verify whether regulations have been repealed or amended since the 2008 publication. Like the statutory code update table, the NMIAC update table and all other legal information on the Commission's website may be accessed free-of-charge.

COMMUNITY OUTREACH

www.cnmilaw.org
www.cnmilaw.org

The Commission serves the public by maintaining a website for the community to access a variety of legal information for free. The website contains a wealth of information, such as, the CNMI Constitution and Covenant, current and past public/local laws, current and past Superior and Supreme Court opinions, a three-month snapshot of the table of contents of the CNMI Register, update tables for the Commonwealth Code and the NMIAC, and the latest CNMI court rules. The website has a search engine that enables the user to access information by simple word searches. The Commission's website saves time, gas, and money by eliminating the prior need to drive and pay for copies of public laws or court decisions from the Legislature or Guma' Hustisia. Moreover, people from remote locations can access CNMI public

laws, updates, case law, and court rules at their convenience. The Commission posts new public laws and court decisions on the website within three days of release to ensure that users have access to the most up-to-date information.

The Commission continues to receive positive feedback regarding the value of the contents and the user-friendliness of the website. The Commission's website was even selected by Study Web as one of the best educational resources on the world-wide-web.

The website is often the first point of contact for individuals interested in CNMI laws. The Commission has assisted investors (including telecommunications and water companies) via telephone and email in gathering information on establishing a business in the CNMI. Quite often, the Commission will refer individuals to the proper government agency, when

appropriate. Moreover, many business people and members of the public come directly to the Commission to obtain copies of the latest regulations, for example the Department of Labor Rules & Regulations.

The Law Revision Commission is its own webmaster. This allows the Commission to maintain, update, and improve the website. Being its own webmaster ensures the continuity of the Commission's website and has saved the Commission money by not having to hire or contract a webmaster.

During these tough economic times, the Commission will continue to seek ways to save money while improving the compilation and accessibility of CNMI laws through its website.

EDUCATION AND TRAINING

The Commission appreciates and understands that, as part of providing access to CNMI law, knowledge of where and how to use local legal resources is fundamental. Accordingly, in addition to the website, the Commission conducts community outreach trainings regarding finding and researching CNMI law. In 2009, the Commission conducted outreach trainings with CNMI court law clerks, CNMI Assistant Attorneys General, and interns of these offices. The trainings, which provide continuing legal education credit to attorneys, teach participants how to efficiently research local law and how to ensure that cited law is up-to-date and still good law. The Commission holds a minimum of two general legal research trainings a year and is able to accommodate general or specially-tailored one-on-one trainings upon request. Additionally, the Commission is always available during working hours to assist with any questions concerning the use of the legal resources published by the Commission.

"2007 CNMI LAWS" CD-ROM

The Commission accomplished a major goal in early 2009 when a fully searchable CD-ROM of all CNMI laws was made available. The "2007 CNMI Laws CD" contains the Commonwealth Code (statutes through August 2007), Commonwealth Reporter Volumes 1 through 3, NMI Reporter Volumes 1 through 6 (CNMI Supreme Court decisions through 2003), CNMI Supreme Court opinions from 2004 through December 2008, and CNMI Superior Court slip opinions through December 2008. Preparing the CD involved intensive and meticulous updating of the publications, organizing and editing current publications, and regular contact with the publishing company, LexisNexis. This much anticipated CD-ROM is a gold mine of information that makes researching and accessing CNMI laws much more convenient.



ON-GOING AND FUTURE PROJECTS

The Commission staff constantly works on supplements to the statutory and administrative codes and new volumes of NMI reporters with case law as well as developing other legal tools to provide the CNMI with access to the most up-to-date legal information. The Commission has offered and will continue to expand and create searchable CD-ROMs of various law materials and work products (Trust Territory and Commonwealth Registers, public and local laws, CNMI court rules, CNMI court decisions, etc.). We also offer custom-ordered sets of law materials such as individual code titles, old case collections and recent case archives in whichever format requested.

Currently, the Commission is working on compiling all statutes for the publication of an updated comprehensive book format of the CNMI statutory code. This publication will incorporate the Commission's supplements from 2005 through 2010 and continue the Commission's tradition of alternating the formats of its publications between paper and electronic form. In the meantime, the Commission will regularly produce and publish separate cumulative supplements to the statutory code. As cumulative supplements are prepared, update tables of statutory and regulatory activity are made available on the Commission's website free-of-charge.

The Commission will continue to host CNMI legal research trainings for the CNMI Bar Association, government agencies, private businesses, the general public, and any other persons requesting such training. As funding becomes available, the Commission will continue to update and improve its website that makes legal resources, such as public laws, court rules and code update tables (just to name a few), available to the public free of charge.

Work for the Commission is never-ending since books and CD-ROMs by their very nature become outdated once new laws are created. As long as legislation continues to be enacted, courts continue to render decisions, and agencies continue to promulgate regulations, the Commission will have plenty of work to do. With continued funding and hard work from the Commission staff, the people of the CNMI will continue to have access to quality publications and legal information.

2009 Superior Court Publications

CASE NAME	CASE NUMBER	CASE DATE	JUDGE
Rebuenog v. Commonwealth Election Commission	CV-09-0463	12/30/09	Wiseman
Dela Cruz, et. al. v. San Nicolas, et. al.	CV09-0492	12/28/09	Manglona
Commonwealth v. Haisen Li	CR09-0011	12/21/09	Inos
Commonwealth v. Sablan	TR-09-0306	12/14/09	Manglona
Hocog v. Mendiola	CV-09-0741	12/09/09	Naraja
In Re the Matter of OAG and Division of Immigration	CV-09-0368	11/27/09	Wiseman
Muna v. Commonwealth, et. al.	CV07-0216	11/12/09	Manglona
Chang v. Concorde	CV09-0236	11/12/09	Wiseman
UMDA v. Praff	CV07-0152	11/05/09	Naraja
Chen Ping v. DOL	CV04-0240	10/13/09	Wiseman
Commonwealth v. Avila, et. al.	TR09-0933	10/06/09	Manglona
Commonwealth v. Tebuteb, et. al.	CV97-0266	10/01/09	Naraja
Morita v. Scuba World, Inc.	CV07-0248	09/21/09	Manglona
Commonwealth v. Namauleg	CR08-0033	09/10/09	Naraja
Commonwealth v. Mori	CR09-0011	09/06/09	Inos
Commonwealth v. Sablan	CR08-0212	09/02/09	Inos
Ueda v. Mugen Corporation	CV08-0414	08/31/09	Inos
CNMI v. Cabrera	CR09-0037	08/19/09	Naraja
Camacho v. Tenorio	CV08-0183	08/12/09	Wiseman
Li Quirong v. Feng Hua Enterprises, Inc.	CV09-0072	08/03/09	Wiseman
Commonwealth v. Calvo	CR08-0105	07/28/09	Naraja
Commonwealth v. Calvo	CR08-0105	07/27/09	Naraja
Commonwealth v. Furey	TR07-0348	07/02/09	Inos
NMIRF v. Governor Fitial	CV06-0367	06/29/09	Govendo
Sablan v. Governor Fitial	CV09-0066	06/19/09	Wiseman
Sablan v. Governor Fitial	CV09-0066	06/18/09	Wiseman
Cundiff v. Wilgus	FCD08-0566	06/01/09	Inos
San Nicolas v. Governor Fitial	CV08-0423	05/29/09	Wiseman
Board of MPLA v. Rogolifoi	CV05-0197	05/07/09	Naraja
Marine Revitalization Corp. v. CNMI DLNR	CV02-0566	04/03/09	Wiseman

2009 ANNUAL REPORT

CASE NAME	CASE NUMBER	CASE DATE	JUDGE
OAG v. Monton	CV06-0547	03/03/09	Wiseman
Guerrero Family Trust, et. al. v. Kinki Nippon Tourist, LTD.	CV04-0574	02/26/09	Inos
Marine Revitalization Corp. v. DLNR	CV02-0566	02/24/09	Wiseman
Guerrero Family Trust, et. al. v. Kinki Nippon Tourist, LTD.	CV04-0574	02/12/09	Inos
Ren Zhou v. Oceania Insurance Corporation	SC08-0452	02/05/09	Inos
BISNES-MAMI (CNMI) Inc. v. Castro	CV04-0569	02/05/09	Manglona
Arriola v. Aguon	CV08-0458	01/26/09	Wiseman
Commonwealth v. Laniyo	CR07-0162	01/20/09	Manglona
Board of MPLA v. Rogolifoi (amended on 05/07/09)	CV05-0197	01/08/09	Naraja

2009 Supreme Court Opinion Summaries

2009 MP 1 *Commonwealth v. Juan B. Camacho*

Decided February 3, 2009

Defendant Juan Borja Camacho appealed his conviction of two counts of first degree sexual abuse of a minor, arguing that (1) there is insufficient evidence to support his convictions; (2) the trial court erred in admitting handwritten notations on a calendar found at his residence into evidence; (3) the trial court erred in denying his motion for acquittal; and (4) the trial court imposed a sentence that was “detrimental to the interest of justice.” The Court held that because Camacho failed to submit any relevant portion of the trial transcript as part of his excerpts of record, they were unable to conduct a meaningful review of the sufficiency of the evidence. Likewise, without a trial transcript, they were unable to review whether the trial court erroneously denied Camacho’s motion for acquittal or erroneously admitted the handwritten notations into evidence. Finally, the Court held that the trial court did not err in imposing Camacho’s sentence. Accordingly, Camacho’s conviction and sentence were upheld.

2009 MP 2 *Roselle D. Calvo v. NMI Scholarship Advisory Board*

Decided February 20, 2009

Appellant Roselle D. Calvo appealed the trial court’s decision affirming the Scholarship Advisory Board’s methodology for selecting honor scholarship recipients. She argued that the scholarship board failed to comply with the plain language of the CNMI Honor Scholarship Act in selecting honor scholarship recipients. The Court agreed with Calvo and held that the scholarship board’s selection process for awarding honor scholarships was arbitrary and capricious because their regulations failed to implement all five statutorily mandated criteria set forth by statute. Accordingly, the trial court’s decision was vacated and the matter was remanded to the scholarship board to (1) promulgate rules and regulations consistent with the statutory language of the law; and (2) reevaluate the entire set of applications for the 2006 honor scholarships, and award the scholarships based on the statutorily-mandated criteria.

2009 MP 3 *In Re the Estate of Pillar De Castro*

Decided April 29, 2009

Angela R. Cabrera sought review of a trial court order denying her claim of sole ownership of a parcel of land that she argued her biological father purchased for her benefit. In the alternative, Cabrera asserted sole ownership of the land under the doctrine of adverse possession. The Court held that the trial court properly determined there was insufficient evidence to support Cabrera’s claim that she was a biological daughter of De Castro or that the property was purchased for her benefit. Additionally, the Court held that the trial court properly denied Cabrera’s claim of ownership under the doctrine of adverse possession because she did not prove she occupied the land under a claim of right that was hostile to the interests of De Castro’s heirs. Finally, the Court addressed whether they had jurisdiction over the petition because the trial court failed to issue a separate entry of judgment in conjunction with its order. The Court found that while the separate document rule was applicable, they had jurisdiction over the petition because the parties waived the requirements of the rule.

2009 MP 4 *Century Insurance Company, Ltd. V. Hong Kong Entertainment (Overseas) Investments, Ltd. D.b.a. Tinian Dynasty Hotel & Casino, Wagon Xy Xiong, Wei Jin An, Wei Hong for Herself and Her Minor Child Wei Yong Tao and Shun Li*

Decided May 12, 2009

A patron of Tinian Dynasty brought suit against Tinian Dynasty in district court seeking damages and other relief stemming from a series of alleged events during a trip to the hotel and casino. The district court lawsuit was dismissed by stipulation and the parties included a provision that each shall be responsible for their own fees and costs. Thereafter, Century Insurance filed this matter in the trial court and asked the trial court to declare that: (1) neither the public liability policy nor the umbrella policy Tinian Dynasty had from Century Insurance provides coverage for claims in the district court suit; (2) the policies do not provide coverage for any liability or obligation Tinian Dynasty might owe to the plaintiffs in the district court suit; (3) the policies do not indemnify Tinian Dynasty against any verdicts against it from the district court suit; (4) Century Insurance must be reimbursed for the costs and fees of the district court suit; and (5) Century Insurance must be granted the costs of bringing this case in the trial court. Summary judgment was granted in favor of Century Insurance and Tinian Dynasty appealed. The Court upheld the trial court’s

decision finding Century Insurance was under no duty to defend Tinian Dynasty against claims filed in a federal lawsuit or to pay damages in relation thereto.

2009 MP 5 *Commonwealth Development Authority v. Felipe Q. Atalig, individually & dba Casa De Felipe and Elvira Custodio Atalig* **Decided June 16, 2009**

Appellants Felipe Q. Atalig, Casa De Felipe, and Elvira Custodio motioned the Court to extend time to file their brief in an appeal following the trial court's decision in favor of CDA. However, appellants' motion failed to comply with Commonwealth Rule of Appellate Procedure 31(d). Additionally, appellants' motion failed to adequately justify their requested relief, and instead indicated a desire to improperly stall the appellate process through misuse of Rule 13 settlement proceedings. The Court denied appellants' motion to extend time and appellants took no other action to further the appeal. Accordingly, the Court dismissed the appeal for failure to prosecute.

2009 MP 6 *Commonwealth v. Jian Hua Zhang* **Decided June 19, 2009**

Defendant Jian Hua Zhang appealed her conviction for assault and battery arguing there was insufficient evidence to sustain her conviction, and the trial judge improperly interjected personal knowledge as evidence. The Court held that the prosecution presented sufficient evidence for a reasonable trier of fact to find Zhang guilty of assault and battery beyond a reasonable doubt. The Court further held that the trial judge did not improperly interject personal knowledge as evidence, but properly conducted an assessment of a witness's credibility. Accordingly, Zhang's assault and battery conviction and sentence were upheld.

2009 MP 7 *Bank of Guam v. John S. Ruben and Mona S. Ruben* **Decided July 6, 2009**

Petitioner Mona S. Ruben requested a rehearing of this Court's decision in *Bank of Guam v. Ruben*, 2008 MP 22. Ruben petitioned for a rehearing on the grounds that this Court erred by: (1) deciding moot issues in her appeal; (2) failing to use the plain meaning of the phrase "method of payment" found in the Commonwealth's order-in-aid of judgment statute; and (3) inadequately addressing her argument that the trial court's decision violated her Thirteenth Amendment rights. The Court held that the opinion properly addressed these issues. Accordingly, the petition for rehearing was denied.

2009 MP 8 *Ma. Marilyn V. Castro, Lolaine Marie V. Castro, v. Ricardo C. Castro* **Decided August 7, 2009**

Appellant Ricardo C. Castro appealed a trial court order prohibiting him from entering onto his property and evicting tenants with no legal interest in the property, arguing that the trial court (1) effectuated a compensable taking; (2) violated his procedural due process rights by prohibiting him from commencing eviction proceedings; and (3) violated his substantive due process rights by arbitrarily ousting him from his property. The Court found that the trial court did not effectuate a taking, as it is inherently incapable of doing so, and that no procedural due process violation occurred because Ricardo was allowed to raise the issue of his property rights during the relevant judicial proceeding. However, because the protective order did not promote a legitimate state objective, the trial court arbitrarily deprived Ricardo of a recognized property interest, and in doing so violated his substantive due process rights. Accordingly, the Court reversed the trial court's decision and vacated the protective order.

2009 MP 9 *Bella Avelino Tudela, a guardian for Loribell Avelino Tudela v. Maria Haruko Tudela* **Decided August 7, 2009**

Appellant Connie T. Pangelinan sought review of a probate order distributing all of her uncle's estate to his surviving spouse, Mrs. Maria H. Tudela, in fee simple absolute, arguing that (1) "exempt property" under 8 CMC § 2601 passes to the surviving spouse in the form of a life estate rather than in fee simple absolute; (2) upon application of 8 CMC § 2903, a surviving spouse takes only half of the estate when the decedent leaves no issue; (3) the land alienation restrictions set out at Article XII of the Commonwealth Constitution prevent Mrs. Tudela from being able to acquire a long-term interest in property; and (4) one of the parcels at issue should be classified as ancestors' land since it was purchased with proceeds from the sale of other ancestors' land. The Court held that the trial court did not err in distributing the entire estate to Mrs. Tudela in fee simple absolute, as the plain language of 8 CMC §§ 2601 and 2903 provides ample evidence that the legislature intended the probate court to transfer the maximum estate under these circumstances. Further, the Court held that Mrs. Tudela is specifically exempted from the land alienation restrictions

by Article XII, Section 2, and that no part of 8 CMC § 2902 applies to the estate at issue, as none of the property can be classified as ancestors' land. Accordingly, the trial court's probate order was affirmed.

2009 MP 10 *Commonwealth v. Harris Ismaela Taivero*

Decided August 7, 2009

Defendant Harris Ismaela Taivero appealed the trial court's denial of his motion to withdraw his guilty plea, arguing that (1) he received ineffective assistance of counsel; and (2) his guilty plea constituted a manifest injustice. The Court held that trial counsel's representation did not fall below an objective standard of reasonableness as he was not required to advise Taivero of the immigration consequences of his guilty plea. The Court further held that the trial court did not abuse its discretion in denying Taivero's motion to withdraw his guilty plea because an alien defendant's lack of knowledge regarding the immigration consequences of a plea does not constitute a manifest injustice.

2009 MP 11 *Christina-Marie Sablan v. Benigno R. Fitial, in his official capacity as Governor of the Commonwealth of the Northern Mariana Islands, and Eloy S. Inos in his official capacity as Secretary of Finance*

Decided August 28, 2009

Appellants Governor Benigno R. Fitial and former Secretary of Finance Eloy S. Inos appealed a trial court decision ordering them to release financial documents to the appellee, Christina-Marie Sablan, pursuant to the Open Government Act, arguing that the trial court (1) incorrectly placed the burden of proof on the government to show that the disclosure exception should not apply; (2) erred in finding that the government would not be disadvantaged in its lawsuit against the federal government if the documents were disclosed; and (3) ignored relevant case law and improperly relied on case law that is not relevant to the case at hand. The Court found that the trial court did not improperly disregard case law that the government claims is relevant to the case at hand, and that it properly relied on case law which, while not completely analogous to the instant case, provided analytical framework for review of the documents. The trial court did, however, err in placing the burden of proving that the disclosure exemption should not apply on the government, as the Open Government Act is structured in such a way that prompts the trial court to place the burden of proof on the plaintiff once the government establishes that a disclosure exemption applies. Upon placing the burden of proof on Sablan, the Court found that she met her burden by demonstrating that the financial documents would not reveal any information that would disadvantage the Commonwealth in its lawsuit against the federal government. Accordingly, the trial court's order was affirmed.

2009 MP 12 *Thomas B. Pangelinan v. NMI Retirement Fund*

Decided September 2, 2009

Appellant Thomas B. Pangelinan appealed the trial court's order denying his request for retroactive payment of retirement benefits that were withheld by the Northern Mariana Islands Retirement Fund, during the time that Pangelinan re-entered the workforce to serve as a government employee. Pangelinan also argued that the trial court erred by denying his request for interest payments on the limited amount of damages it did award him. The Court held that the trial court did not err in refusing to grant Pangelinan the full extent of benefits withheld by the Retirement Fund, as he assented to the work restrictions set forth at Article III, Section 20(b) of the Commonwealth Constitution by not objecting to elevated annuity payments within a reasonable time. Further, the Court found that the trial court correctly denied Pangelinan interest on his damages because the Commonwealth legislature did not expressly authorize such awards.

2009 MP 13 *Commonwealth v. John M. Namauleg*

Decided September 8, 2009

John M. Namauleg was charged with attempted second degree murder and during his jury trial, the Commonwealth attempted to introduce a video taped deposition of the victim who was then in China. The defense objected on hearsay grounds and the trial court excluded the video taped deposition. The Commonwealth then filed a petition for a writ of mandamus, requesting full review of the trial court's decision to exclude the videotape deposition of the victim from evidence. The Court upheld the trial court's decision to exclude the viodeotape and denied the Commonwealth's petition because the Commonwealth did not make a good-faith effort to procure the declarant nor did the Commonwealth prove she was presently physically unable to testify in court.

2009 MP 14 *Stanley M. Torres and Jack A. Angello v. Commonwealth Utilities Corporation* **Decided September 28, 2009**

Stanley M. Torres and Jack A. Angello appealed the trial court's holding that Governor Benigno R. Fitial did not exceed his reorganizational powers under the Commonwealth Constitution by significantly restructuring the administration of the Commonwealth Utilities Corporation. Torres and Angello also argued that the Governor's restructuring caused their utility rates to be illegally increased. Because the Governor did not merely make changes to the location of an agency, as is permitted by Article III, Section 15 of the Commonwealth Constitution, but rather created an entirely new government entity, the Court found that he exceeded the powers granted to him by Article III, Section 15. The increased utility rates imposed as a result of the restructuring were prohibited by law. The legislature, however, later cured the illegality of the rates by passing Public Law 15-35, but it did so only prospectively. As a result, the increased electric rates were determined to be invalid from the date the executive director implemented them until the effective date of Public Law 15-35. The Court remanded the matter directly to CUC for re-calculation of Torres's and Angello's utility bills.

2009 MP 15 *Commonwealth v. Franklin Cabrera Cepeda, Jr. and George Ilo* **Decided November 19, 2009**

Appellant Franklin Cabrera Cepeda, Jr., appealed his convictions for first degree murder, robbery, aggravated assault and battery, assault with a dangerous weapon, and conspiracy. Cepeda argued among other things that: (1) hearsay and prejudicial character testimonies were improperly admitted; and (2) the trial court erred by not instructing the jury to consider whether he had specific intent to permanently deprive the victim of his property. Because both character evidence and hearsay testimony are only admissible if they satisfy certain conditions set forth in the Commonwealth Rules of Evidence, and the testimonies at issue on appeal failed to meet those conditions, the Court held that they were improperly admitted. The Court further held that specific intent is an essential element of the crime of robbery and that the trial court judge had a duty to instruct the jury. Accordingly, Cepeda's convictions were reversed and the case was remanded to the trial court for a new trial.

2009 MP 16 *Century Insurance Company, Limited v. Pedro R. Guerrero, et al.* **Decided November 20, 2009**

Appellant Century Insurance Company, Limited appealed the trial court's order granting Appellee Pedro R. Guerrero's motion to dismiss Century Insurance's complaint to enforce an agreement to lease real property on the grounds that it was barred by the six-year statute of limitations found in 7 CMC § 2505. Century Insurance argued that the "Agreement to Lease" executed by the parties is governed by the twenty-year statute of limitations specified in 7 CMC § 2502(a)(2). Case law, principles of statutory construction, and principles of contract and property law lead the Court to conclude that suits to enforce an agreement to lease real property do not constitute actions to recover an interest in land for purposes of 7 CMC § 2502(a)(2); therefore, such suits face the time limitations of 7 CMC § 2505. Accordingly, the trial court's order was affirmed.

2009 MP 17 *Md. Rafiqul Islam v. Maria Carmen Ayuyu Islam and Ana Bella Callos Islam* **Decided December 22, 2009**

Appellant Md. Rafiqul Islam appealed a trial court order denying his petition for annulment of his 2002 marriage to Ana Bella Callos Islam in the Philippines, arguing that the marriage did not meet the requirements of either Islamic or Philippine law. Islam also appealed the trial court's decision to grant a divorce to his second wife, Maria Carmen Ayuyu Islam claiming that his failure to inform Ayuyu of his marriage to Callos was not sufficiently egregious to justify granting a divorce. Because Appellant Md. Rafiqul Islam did not produce sufficient evidence to overcome the strong presumption of validity of his marriage to Callos, the trial court did not err by recognizing a valid marriage. However, because Appellant Md. Rafiqul Islam's marriage to Callos was valid at the time of his subsequent marriage to Ayuyu, the latter marriage was void, and the trial court should have granted Ayuyu's petition for an annulment.

2009 MP 18 *Tano Group, Inc. v. Department Of Public Works, et al.*

Decided December 31, 2009

Appellant Department of Public Works (“DPW”) appealed the trial court’s decision (i) awarding consequential damages, (ii) finding a breach of the implied covenant of good faith and fair dealing, (iii) granting additional time delays, (iv) applying the incorrect interest rate to the damage awards and, (v) on the grounds that the trial court did not have subject matter jurisdiction to hear the breach of contract and breach of the implied covenant of good faith and fair dealing claims by Tano Group, Inc. (“Tano”). Tano cross appealed arguing that the trial court erred in (i) not awarding consequential damages for costs related to third-party lawsuits, (ii) not awarding damages for some breach of the implied covenant of good faith and fair dealing claims, and (iii) improperly placing the burden of proof for the reasonableness of mitigation on Tano, the non-breaching party. The Court upheld the trial court’s decision but found that error was committed in placing the burden of proof regarding the mitigation of damages on Tano and applying a fifteen percent interest rate to Tano’s damage awards. Therefore, the case was remanded to the trial court to enter judgment consistent with the findings.

2009 MP 19 *Homayan Kabir v. CNMI Public School System and Jonas Barcinas*

Decided December 31, 2009

The United States Court of Appeals for the Ninth Circuit certified two questions of CNMI law to the Supreme Court pursuant to Rule 5 of the Commonwealth Rules of Appellate Procedure. Both questions involved the interpretation and application of the Commonwealth Employees Liability Reform and Tort Compensation Act of 2006 (“CELRTCA”), PL 15-22. The CNMI Supreme Court was asked to address the following questions: (1) Does the Commonwealth Employees’ Liability Reform and Tort Compensation Act of 2006 (“CELRTCA”) cover employees accused of misconduct when the CNMI Attorney General certifies that the alleged misconduct did not take place at all? That is, does CNMI law follow the Supreme Court’s decision in *Osborn v. Haley*, 549 U.S. 225 (2007)? (2) Does CELRTCA cover employees accused of sexual assault and battery, a tort traditionally understood to occur outside the scope of employment? As to question one, the Court held that the CNMI Attorney General may issue scope-of-employment certification under CELRTCA based on the factual determination that the alleged tortious conduct did not occur. That is, CNMI law follows the United States Supreme Court’s decision in *Osborn v. Haley*. As to question two, the Court held that CELRTCA covers government employees sued for negligent or wrongful conduct arising from actions taken within the scope of employment – including intentional torts – but that under CNMI law, intentional torts will ordinarily fall outside the scope of employment.

2009 MP 20 *Victor Borja Hocog v. Melchor Atalig Mendiola, et al.*

Decided December 31, 2009

On November 16, 2009, Victor Hocog and Ross Manglona filed separate complaints for Election Contest in their individual capacities as voters of Rota and as losing contestants in the November 9, 2009 general election seeking a recount. Hocog and Manglona alleged that (1) the Rota ballots were improperly counted because all of the ballots were not subject to a preliminary count on Rota as required by the election statute; (2) the absentee votes cast for Mayor of Rota, Senator, and Representative were not placed on “local ballots,” as required by the election statute; and (3) a substantial number of votes for Senator and Representative from Rota were counted as undervotes by the Commonwealth Election Commission (“Commission”) when the intent of the voter could be discerned. The complaints alleged that these procedural errors were “sufficient to change the final result of the election” under 1 CMC § 6601(a) (4). The Court affirmed the trial court’s finding of Commission error but reversed the trial court’s dismissal based on a failure to show “actual prejudice” and remanded the matter to the trial court to supervise the recount in accordance with the procedures set forth in 1 CMC § 6605(a).

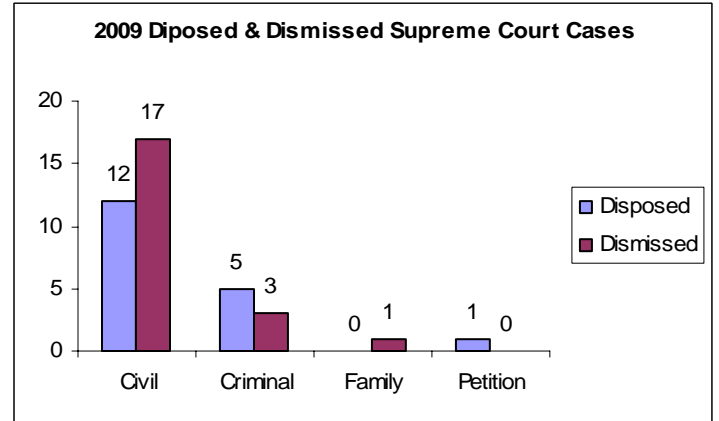
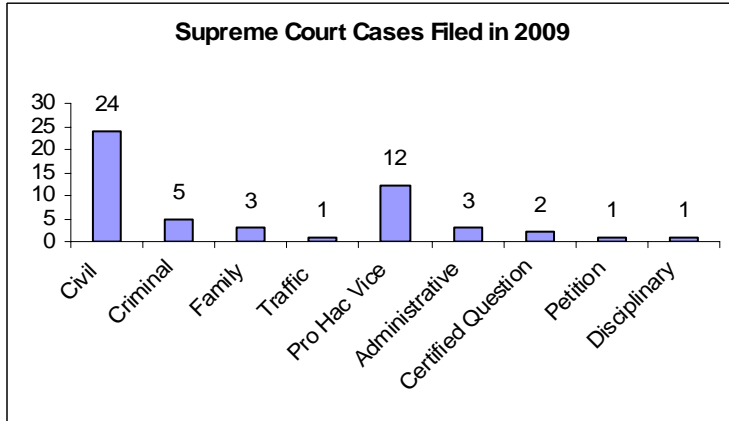
2009 MP 21 *Commonwealth v. Francisco Aguon Pua*

Decided December 31, 2009

A jury found defendant Francisco Aguon Pua (“Pua”) guilty of first degree felony murder and acquitted him of the underlying robbery charge. Pua appealed the trial court’s denial of his motion to suppress a pouch that was seized during the execution of a search warrant and the trial court’s denial of his motions to acquit and to set aside the jury verdict. The Court affirmed the trial court’s ruling on the motion to suppress because the seizure of the pouch was justified under the “plain view” exception of the Commonwealth Constitution. The Court found sufficient evidence to sustain the charges and held that the trial court did not err in denying Pua’s motion to set aside the verdict as the jury’s verdict finding him guilty of first degree felony murder and acquitting of the underlying robbery charge was not inconsistent.

Judiciary Statistics

CASE FILING IN THE OFFICE OF THE CLERK OF COURT, SUPREME COURT

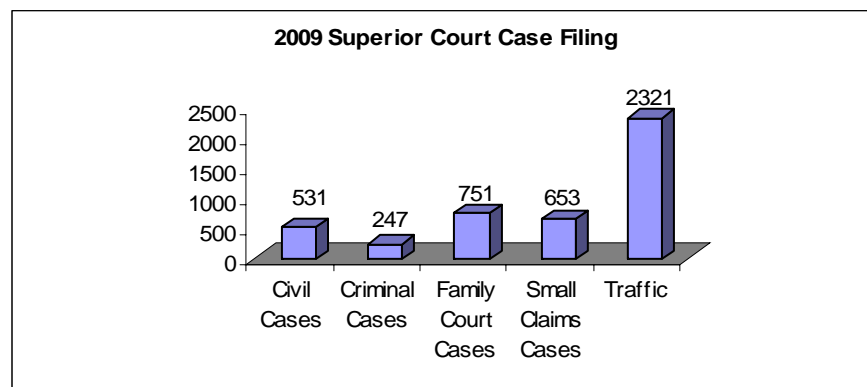


2009 CNMI Bar Examination Statistics

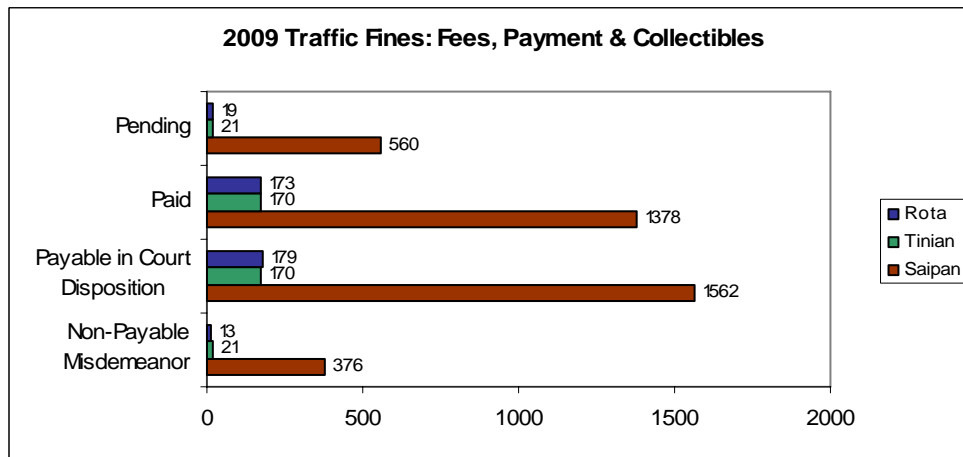
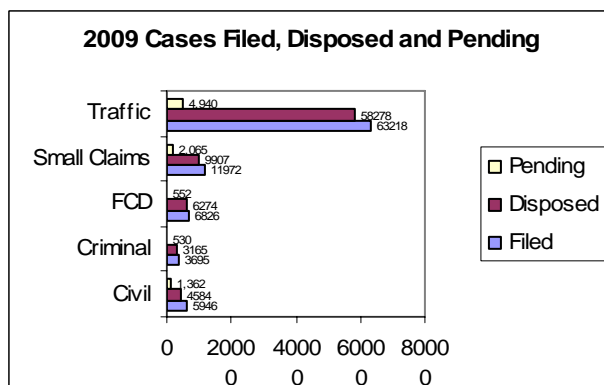
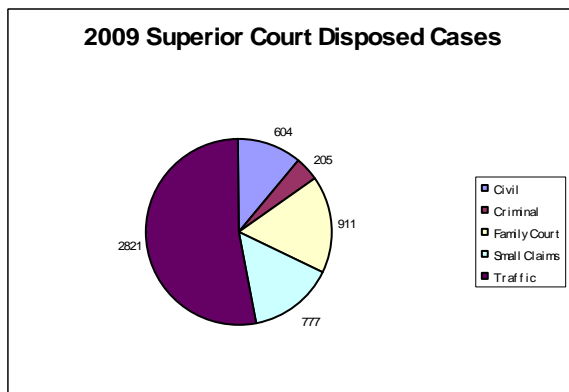
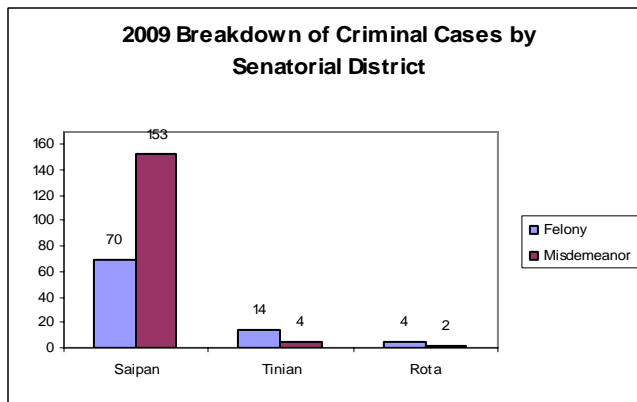
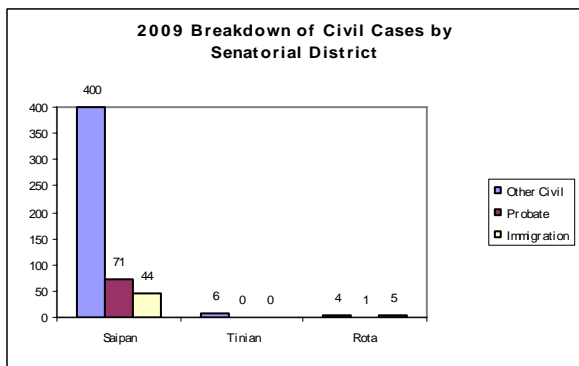
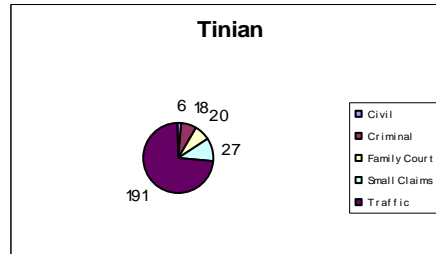
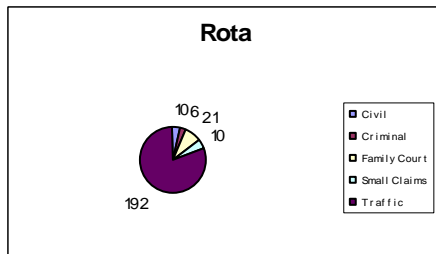
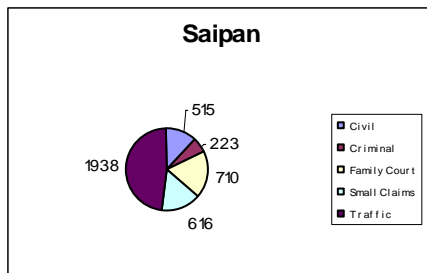
February 2009						
	1st Time	Passed	Failed	2nd Time	3rd Time	Total Taken/Passed/Failed
Regular	1	1	0			1 / 1 / 0
Attorney	1	1	0			1 / 1 / 0

July 2009						
	1st Time	Passed	Failed	2nd Time	3rd Time	Total Taken/Passed/Failed
Regular	1	1	0			1 / 1 / 0
Attorney	0	0	0			0

CASE FILING IN THE OFFICE OF THE CLERK OF COURT, SUPERIOR COURT

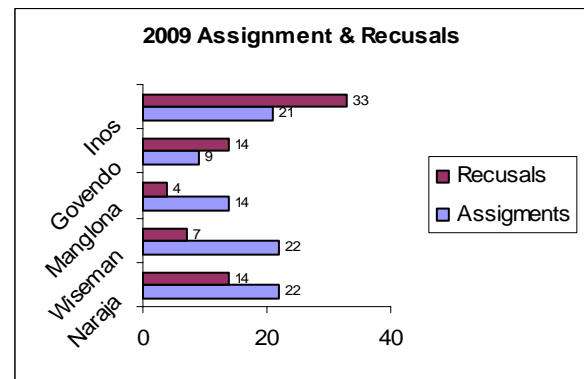
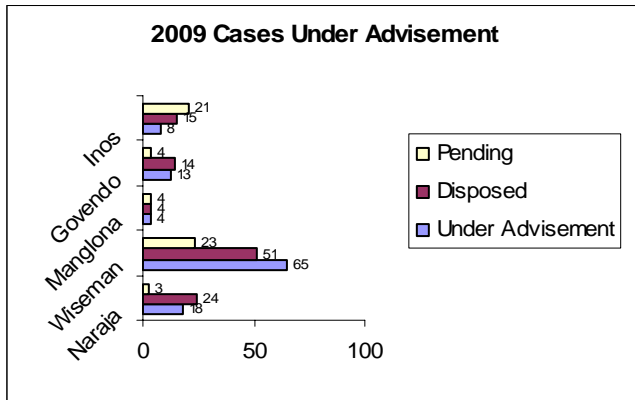
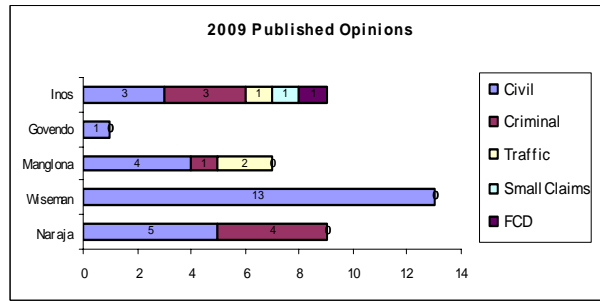


2009 Cases Filed by Senatorial District



2009 ANNUAL REPORT

SUPERIOR COURT PUBLICATIONS & CASES UNDER ADVISEMENT



2009 Assignment of Cases	Presiding Judge Naraja	Associate Judge Wiseman	Associate Judge Manglona	Associate Judge Govendo	Associate Judge Inos	Total
<i>Civil - Saipan</i>	147	245	53	1	67	513
<i>Civil - Tinian</i>	0	0	6	1	0	7
<i>Civil - Rota</i>	2	0	0	1	8	11
Total	149	245	59	3	75	531
<i>Criminal - Saipan</i>	66	64	30	35	28	223
<i>Criminal - Tinian</i>	0	18	0	0	0	18
<i>Criminal - Rota</i>	6	0	0	0	0	6
Total	72	82	30	35	28	247
<i>Small Claims - Saipan</i>	2	2	23	5	584	616
<i>Small Claims - Tinian</i>	0	0	27	0	0	27
<i>Small Claims - Rota</i>	0	0	0	0	10	10
Total	2	2	50	5	594	653
<i>Traffic - Saipan - Non Payable</i>	0	0	376	0	0	376
<i>Traffic - Tinian - Non Payable</i>	0	21	0	0	0	21
<i>Traffic - Rota - Non Payable</i>	13	0	0	0	0	13
Total	13	21	376	0	0	410
<i>Traffic - Saipan - Payable</i>	0	0	1562	0	0	1562
<i>Traffic - Tinian - Payable</i>	0	170	0	0	0	170
<i>Traffic - Rota - Payable</i>	179	0	0	0	0	179
Total	179	170	1562	0	0	1911
<i>Family Court - Saipan</i>	7	0	2	674	4	687
<i>Family Court - Tinian</i>	0	0	20	0	0	20
<i>Family Court - Rota</i>	0	0	0	0	20	20
Total	7	0	22	674	24	727
<i>Juvenile - Family Court Saipan</i>	22	0	0	0	0	22
<i>Juvenile Family Court Tinian</i>	0	1	0	0	0	1
<i>Juvenile - Family Court Rota</i>	1	0	0	0	0	1
Total	23	1	0	0	0	24

2009 JURY TRIALS

ISLAND	CRIMINAL	CIVIL	TRAFFIC	TOTAL
SAIPAN	3	0	0	3
TINIAN	0	0	0	0
ROTA	0	0	0	0
TOTAL	3	0	0	3

Of the ninety-one (91) cases set for jury trial, only three (3) cases were tried.

2009 PENDING & DISPOSITION OF JURY TRIAL CASES

Island	Case Type	Tried	Dismissed	Change of Plea	Bench Trial	Settled	Pending	Total
SAIPAN	<i>Civil</i>	0	9	0	2	2	13	26
	<i>Criminal</i>	3	5	17	1	0	30	56
ROTA	<i>Civil</i>	0	0	0	0	0	1	1
	<i>Criminal</i>	0	1	5	1	0	1	8
TOTAL		3	15	22	4	2	45	91

2009 APPOINTMENT OF COUNSEL

The following table shows the number of court-appointed counsel for indigent defendants for 2009 in Criminal, Traffic, Juvenile and Uniform Parentage Act (UPA) cases.

2009	CRIMINAL	TRAFFIC	JUVENILE	PATERNITY URESA WARDSHIP DIVORCE GUARDIAN AD LITEM	CIVIL COMMITMENT	SMALL CLAIMS	CIVIL	TOTAL
JAN	5	0	1	2	0	0	0	7
FEB	4	0	2	9	0	0	1	16
MAR	15	0	0	6	1	2	0	24
APR	11	1	1	4	0	3	4	24
MAY	6	0	2	13	0	4	3	28
JUN	8	0	0	3	2	4	1	18
JUL	3	0	2	1	0	5	0	11
AUG	3	0	0	7	0	1	1	12
SEP	1	0	0	4	0	1	0	6
OCT	2	0	0	3	0	3	0	8
NOV	8	0	1	14	0	0	1	24
DEC	8	0	0	6	0	2	12	28
TOTAL	74	1	9	71	3	25	23	206

2009 Breakdown by Senatorial District

	Criminal Cases	Traffic Cases	Juvenile Cases	Family Court Cases	Small Claims	Civil Cases	Total
SAIPAN	70	1	9	67	25	23	195
TINIAN	3	0	0	6	0	0	9
ROTA	1	0	0	1	0	0	2
TOTAL	74	1	9	74	25	23	206

2009 Payment of Professional Fees

YEAR	APPT COUNSEL	INTERPRETER/TRANSLATOR	JURY
2009	\$58,499.37	\$45,697.95	\$1,050.00

2009 APPEALED CASES

As of December 31, 2009, there were 24 appeal cases awaiting certification. In the year 2009, there were 34 cases filed on appeal.

Appeal Activity	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Cases Awaiting Certification (beginning the month)	34	40	24	22	21	23	24	25	26	23	26	25
Cases Appealed (during the month)	7	2	2	4	3	2	2	3	1	3	2	3
Cases Certified (during the month)	1	15	4	4	1	1	1	2	4	0	1	2
Cases Dismissed (during the month)	0	3	0	1	0	0	1	0	0	0	2	2
Cases Pending (during the month)	40	24	22	21	23	24	25	26	23	26	25	24

Upon the filing of the Transcript Order and Designation Form by the appellant in indigent criminal cases, the preparation of the transcripts is assigned to a secretary. There were six (6) pending transcript assignments at the end of 2008. In 2009, there were thirteen (13) transcripts requested and assigned to a secretary. At the end of 2009, there were seven (7) pending transcripts.

2009 CUSTOMER SERVICE COUNTER

The Office of the Clerk of Court also provides the general public with various services such as the processing of traffic clearances, traffic histories, criminal clearances, and bench warrants, as well as copying documentation. Below is the yearly tally of activities of the Customer Service Counter.

	Criminal Clearance	Traffic Clearance	Traffic History	Total
SAIPAN	22,004	9,581	672	32,257
TINIAN	1,217	481	2	17
ROTA	1,085	468	3	1,556
TOTAL	24,306	10,530	677	33,513

2009 Activity Report on Judge Pro Tempore

At the end of calendar year 2009, there was one (1) case heard by a Judge Pro Tempore.

Date	Case Number	Caption	Judge Pro Tempore
09/25/08	04-0449A	Bank of Saipan, Inc. v. Randall T. Fennell, et. al.	Arthur R. Barcinas

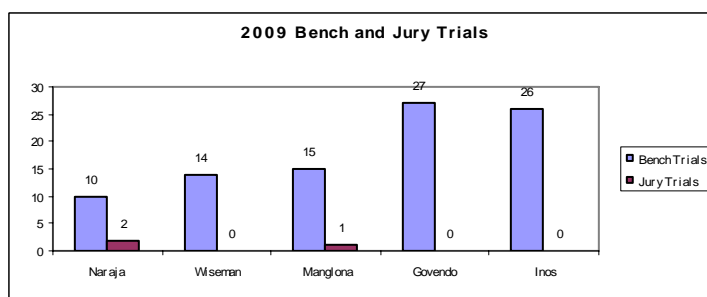
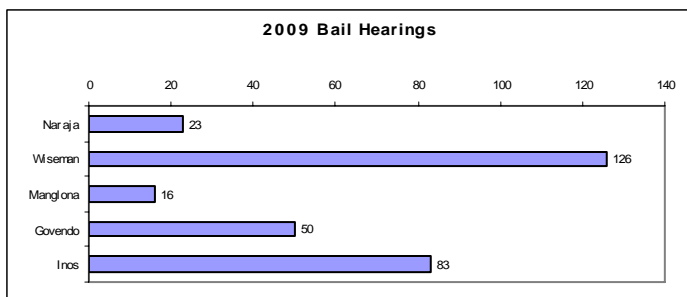
2009 LEXISNEXIS Electronic Filings

	2009	Prior Years	Total Online Cases
FCD Filed Cases Online	659	1,330	1,989
Civil Cases Filed Online	531	1459	1,990
Total	1,190	2,789	3,979

2009 Laserfische Database

Bar Code Cases	Cases Bar-Coded in 2009	Prior Years
Civil	531	75
Criminal	247	40
Traffic	410	27
Small Claims	653	16
Family Court Cases	727	17
Juvenile Cases	24	3
TOTAL	2,592	178

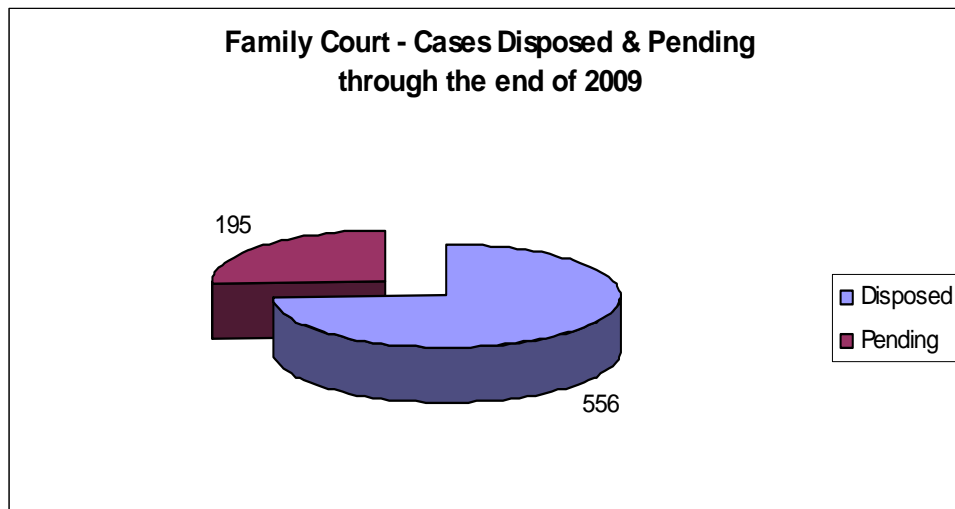
At the end of 2009, there were 41,453 total cases/documents scanned.



Family Court Division 2009 Breakdown of Case Type

CASE TYPE	SAIPAN	ROTA	TINIAN	TOTAL
Adoption	47	1	2	50
Alimony	0	0	0	0
Annulment	2	0	0	2
Change of Name	25	0	0	25
Civil Commitment	3	0	0	3
Divorce	265	9	6	280
Emancipation	0	0	0	0
Family Protection Act	159	8	6	173
Guardianship	96	1	1	98
Paternity	56	1	3	60
Petition to Correct Birth Certificate	0	0	0	0
URESAs	19	0	1	20
Wardship	16	0	0	16
Juvenile	22	1	1	24

Through the end of 2009, there were a total of 751 cases filed. Of the 751 cases, 556 were disposed, while 195 cases are still pending.



OFFICE OF ADULT PROBATION - 2009 STATISTICS

<u>ACTIVITIES</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
SUPERVISION, MONITORING & TRACKING			
<u>Referrals</u>			
<i>Carryover from Previous year</i>	2,647	2,710	2,662
Total New Referrals for the year	453	268	251
Criminal [(2009: Male: 104 Female: 31)(SPN 124; TIQ 10; ROP 0)]	142	140	135
Diversion (2009: 0)	11	10	-0-
Traffic [(2009: Male: 103 Female: 13)(SPN 115; ROP 1; TIQ 0)]	300	118	116
Closed Cases for the year (Successful 115; Unsuccessful 14)	(217)	(253)	(129)
Total Probation Cases	3,100	2,978	2,913
Total Active Persons on Probation	2,883	2,725	2,784
COLLATERAL & COURTESY INVESTIGATION & SUPERVISION (To & From)			
Collateral Courtesy Investigation	6	8	8
Courtesy Supervision	1	1	3
Military Request (Probationer's Record)	2	2	0
Total Number of Collateral & Courtesy Services	9	11	11
COURT SERVICES			
PRE-TRIAL SERVICE / INVESTIGATION REPORTS			
Indigent Assessment	33	30	32
Pre-Post Sentence Investigation	12	9	5
Restitution Assessment	13	10	9
Review Hearings Report: (2009 (Traffic 402; Cri. 612)	967	1,122	1,041
Revocation Report [(filed at the AGO) (2009 (Traffic 16 Cri. 12)]	20	40	28
Total Number of Reports	1,045	1,211	1,115
COURT APPEARANCES			
Indigent Assessment	0	0	9
Pre-Post Sentence Investigation Hearing	17	10	9
Restitution Hearings	24	10	20
Review Hearings (2009 (Traffic 402; Cri. 644)	1,922	1,131	1,046
Revocation Hearings (Traffic 16; Cri. 39)	24	37	55
Total Number of Appearances in Court	1,987	1,188	1,139
BENCH WARRANTS			
Bench Warrant Issued (2009 Traffic 4; Cri 21)	89	47	25
Pending Bench Warrant (2009 Traffic 4; Cri. 13)	80	176	17
OFFENDER'S SERVICES			
ALTERNATIVE SENTENCE / PREVENTION, CONDITIONS & REFERRALS			
AIC Ordered (Alcohol Information Class – Karidat)	not available	not available	75
CGC Counselings Ordered	138 (ordered 150)	90 (ordered 126)	42
CWS	135 (ordered 103)	126 (ordered 138)	159 (2009 Ordered)
Crime Prevention	34	20	30
Common Sense Parenting Class	-0-	-0-	-0-
Drug Test Court Order: (2009 Traffic: 75 Criminal Court: 2)	not available	not available	77
Drug Test Conducted by Officers (2009 Male: 124 Female: 2)	not available	not available	126
Traffic: 42 Criminal 84 Results: Negative: 116 Positive: 10 /all male			
ISP	278	105	155
Probation Orientation	215	188	179
Stay Away	not available	not available	37
Total Referrals	800	529	879
FINANCIAL COLLECTIONS			
Court Fees	\$ 17,383.50	\$ 11,640.00	\$ 12,045.00
Fines	\$ 40,016.50	\$ 113,659.25	\$ 70,565.50
Probation Fees	\$ 37,432.50	\$ 31,248.75	\$ 33,643.27
Restitution	\$ 17,473.18	\$ 18,594.18	\$ 32,933.82
Total Collection	\$109,494.65	\$175,142.18	\$149,187.59