



**E-FILED**  
**CNMI SUPREME COURT**  
E-filed: Sep 21 2018 03:50PM  
Clerk Review: Sep 21 2018 03:51PM  
Filing ID: 62475918  
Case No.: ADM-2018  
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# **NORTHERN MARIANA ISLANDS RULES FOR IN FORMA PAUPERIS**

Effective May 1, 2018

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### **Rule 1. Scope**

These rules govern the application and procedure for *in forma pauperis* in the Superior Court.

### **Rule 2. Definitions**

- (a) The following definitions apply throughout these rules unless the context clearly indicates otherwise:
  - (1) “In forma pauperis” means permission given by a court to an indigent to initiate a legal action without having to pay for court fees or costs due to his or her lack of financial resources.
  - (2) [RESERVED]

### **Rule 3. Application**

- (a) Leave to Proceed *in forma pauperis*
  - (1) Any individual who is unable to prepay the fees in a family court, probate court, or any other docket type as permitted by the courts may apply to the Superior Court to proceed *in forma pauperis*. The application shall:
    - (A) be made on the form provided by the courts;
    - (B) all applications must include contact information for the individual if available; and
    - (C) be submitted to the Superior Court for review.
  - (2) Any individual granted *in forma pauperis* status is not required to pay filing fees, service of process fees, authentication fees, certification fees, copying costs, witness fees, jury costs, transcript costs, or other similar costs related to the case under consideration in all further proceedings and matters unless the order specifies otherwise.

### **Rule 4. Court Review**

- (a) Action on the Application
  - (1) Upon consideration of the standards set forth in these Rules, the Superior Court may:

- (A) grant the application to proceed *in forma pauperis*;
  - (B) deny the application; or
  - (C) grant the application in part—requiring payment in full at a later time or in installments, requiring partial payment, or limiting the scope of the grant of relief.
- (2) In any order on an application to proceed *in forma pauperis* that is not granted in full, the decision must set forth a clear and concise statement of the reasons for the decision.

### **Rule 5. Duty to Identify Household Members**

#### (a) Contents of the *in forma pauperis* Application

- (1) In applying for *in forma pauperis* status, the individual shall identify all members of his or her household, including himself or herself, and:
- (A) all other individuals occupying the same housing unit as the applicant; or
  - (B) all other individuals who are included in the applicant's most recent tax return.

### **Rule 6. In Forma Pauperis Criteria**

#### (a) Conditions on Relief

- (1) The Superior Court shall grant *in forma pauperis* status to an individual who meets either one of the following criteria:
- (A) The individual or a member of his or her household receives a means-tested benefit (including but not limited to NAP, SSI, Section 8 housing, LIHEAP, MLSC representation, and PSS free school lunch). Documentation of current eligibility for the identified program must be attached to the application for *in forma pauperis* status; or
  - (B) The total gross income of all household members is at or less than 125% of the U.S. poverty standard for Hawaii. For purposes of this test, benefits received under NAP, SSI, Section 8 housing (including utility assistance), LIHEAP, MLSC representation, and PSS free school lunch do not count as income. Documentation of income of all household

members must be attached, unless a reasonable explanation for not doing so is provided.

(b) Subject to Superior Court Discretion

- (1) The Superior Court may grant *in forma pauperis* status to any individual who faces an economic hardship or has other persuasive reasons for needing *in forma pauperis* relief. The Superior Court shall exercise its discretion and may consider among other factors:
  - (A) the individual's real or personal property owned;
  - (B) the age of dependents;
  - (C) outstanding debts or lifestyle;
  - (D) medical issues;
  - (E) whether income is protected by law (such as Social Security benefits, Veteran's benefits, NMI Retirement Fund benefits, etc.);
  - (F) whether income is designated for special use (such as child support or child benefits); and
  - (G) control over income (where the household includes members who are not legally liable for the individual).

**Rule 7. Partial Relief**

(a) Granted in Part

- (1) If the Superior Court determines that only partial *in forma pauperis* relief is appropriate, it must set forth with specificity the limits of the relief granted.
- (2) The Superior Court may permit the individual time to pay the full filing fees, or require partial payment of fees.
  - (A) If the Superior Court does so, the civil case should not be delayed in its progress except for the final order, which may be withheld until the fees are paid.
- (3) The Superior Court may also determine a reasonable limit on the number of copies of signed orders or the number of certified

copies of documents that it will allow an individual to receive through *in forma pauperis* status.

### **Rule 8. Changed Circumstances**

#### (a) Changed Circumstances

- (1) An individual granted *in forma pauperis* status is under a continuing duty to update the Superior Court of relevant changes to the individual's circumstances within a reasonable time of such changes while the legal matter is pending in the Superior Court.

#### (b) Revocation of Status

- (1) The Superior Court may revoke an individual's *in forma pauperis* status upon further consideration. Any such revocation made by the Superior Court must be done only after the individual with *in forma pauperis* status is given notice and an opportunity to be heard. The Superior Court must set forth in its revocation order a clear and concise statement of the reasons for its decision.

#### (c) Denial of Status

- (1) A final order denying *in forma pauperis* for Superior Court proceedings, may be appealable to the Supreme Court by an individual who files a motion to allow such status pursuant to NMI Supreme Court Rule 24.

### **Rule 9. Tolling**

#### (a) Time Limitations and Tolling

- (1) For all defendants or others responding to court process where there is a deadline for his or her response and a filing fee, the time for filing is tolled if the individual has attempted to file a response along with an application seeking a waiver of court fees under this rule while the Court considers the application for *in forma pauperis* status.

- (A) If the Superior Court grants the application, the individual's response shall be filed contemporaneously with the order granting *in forma pauperis* status;
- (B) If the application is denied in whole or in part, the Superior Court shall include in its denial a time, not less than ten days after the date of denial, in which the individual shall file his or her response and pay the required fee.

### **Rule 10. Notification of Decision**

#### (a) Notice of Superior Court's Decision

- (1) The Superior Court shall make reasonable attempts to notify the individual of its decision on the application for *in forma pauperis* status. The decision on the application shall be available at the Office of the Clerk of Court, Superior Court.

### **Rule 11. Reconsideration and Appeal**

#### (a) Motion for Reconsideration

- (1) If the Superior Court denies the individual a right to proceed *in forma pauperis* or revokes status previously granted, the individual may seek reconsideration of the order within a reasonable time.
- (2) The Superior Court must hold a hearing on the record before denying the motion to reconsider.

#### (b) Motion for Appeal

- (1) A final order, after reconsideration, denying in whole or in part *in forma pauperis* relief or revoking *in forma pauperis* status is immediately appealable.
  - (A) The Superior Court shall take such action as necessary to enroll the matter on its docket to allow an appeal.
  - (B) The Superior Court must allow the individual to file the appeal of a denied *in forma pauperis* application or revoked status through *in forma pauperis* status.

**Rule 12. Amendments**

The courts may adopt amendments to the application forms and criteria required for *in forma pauperis* status consistent with these rules and Commonwealth law as necessary, including rule comments, clarifications, forms, and clerical corrections.