



By order of the Court, Judge **KENNETH L. GOVENDO**

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**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**IN RE ESTATE OF ANUNCIACION
MENDIOLA CAMACHO MAGOFNA,**

Deceased.

CIVIL ACTION NO. 19-0210

**JUDGMENT FINDING CLAIMANT
DOLORES SABLAN MENDIOLA-
ALDAN AND CLAIMANT ANNETTE P.
CRUZ ARE HEIRS OF ANUNCIACION
MENDIOLA CAMACHO MAGOFNA
THROUGH THE CUSTOMARY
ADOPTION PRACTICE OF POKSAI**

I. INTRODUCTION

This matter has been before the Court since 2019, following the death of Anunciacion Mendiola Camacho Magofna (“Asako”), who died intestate. During the proceedings related to her estate, two individuals filed claims of heirship against the Estate of Annunciations Mendiola Camacho Magonfa (the “Estate”), claiming they had been adopted by Asako through the Chamorro customary adoption practice of *poksai*. Annette P. Cruz (“Annette” or “Ms. Cruz”) filed her Claim of Heirship with this Court on December 6, 2022, and Dolores Sablan Mendiola-Aldan (“Dolores” or “Ms. Aldan”) filed her Claim of Heirship with this Court on February 23, 2023.

This Court conducted evidentiary hearings of Annette and Dolores’ claims, during which the Court heard testimony from several fact witnesses, expert witnesses in Chamorro custom, and admitted various exhibits. Present at these hearings were the Administrator for the Estate, Froilan Camacho Jr., with his counsel, Mr. Colin M. Thompson, Esq; Ms. Cruz with her attorney, Ms. Charity R. Hodson, Esq.; and Ms. Aldan with her attorney, Mr. Michael W. Dotts, Esq.

1 **II. BACKGROUND**

2 The Court makes the following findings of fact based on the evidentiary hearings:

3 *a. Court Findings of Fact for Dolores Sablan Mendiola-Aldan:*

- 4 1. Dolores was born on June 4th, 1958. (Tr. 260, ll. 22-25). Dolores’ biological
5 mother is Veronica Taramao Tolay. She was a Palauan who lived in Saipan. Tr.
6 261, ll. 5-7. Dolores’ biological father is Juan Sablan Mendiola (“Juan”). Tr. 261,
7 ll. 8-15.
- 8 2. When Dolores was born, Juan worked as a carpenter on a ship. He went to sea all
9 the time. Therefore, he gave Dolores to his parents, Joaquin M. Mendiola and
10 Dolores S. Mendiola, to raise. Tr. 262, ll. 1-5.
- 11 3. Joaquin M. Mendiola and Dolores S. Mendiola legally adopted Dolores and she
12 stayed with them until she was 4 years old in their home in Chalan Kanoa. Tr.
13 262, ll. 6-16.
- 14 4. Living in the same home as Dolores and her parents by adoption were Asako and
15 her husband Froilan Tudela Camacho (“Froilan”). Asako was the daughter of
16 Joaquin M. Mendiola and Dolores S. Mendiola, and Dolores’ aunt. Tr. 262-263.
- 17 5. Asako had trouble with her pregnancies and after a still birth occurred, she and
18 her husband Froilan decided to move to Tanapag. Tr. 304, ll. 11-19. Joaquin M.
19 Mendiola and Dolores S. Mendiola then gave Dolores to Asako and Froilan to
20 raise. Dolores was age 4 at the time. Tr. 263, ll. 9-14.
- 21 6. Fermina Camacho (“Fermina”), visited Asako regularly as Asako had become
22 Fermina’s sister-in-law through marriage. Fermina visited Asako for most of the
23 weekends at Tanapag. Tr. 574, ll. 20-25. Fermina testified that when she visited
24 Asako in Tanapag, Dolores was always there as Dolores was living with Asako

1 as Asako's daughter. Asako always addressed Dolores as "my daughter" and
2 Dolores call Asako "mom." Tr. 575, ll. 19-25.

3 7. Asako never told Fermina that Dolores was *poksai*. Instead, Asako addressed
4 Dolores as her daughter without making any distinction. Tr. 578, ll. 1-3.

5 8. Asako also told her close friend and classmate, Soledad Cabrera ("Soledad") that
6 Dolores was her daughter. Soledad knew that Dolores was raised by Asako. Tr.
7 238- 240.

8 9. Dolores went to William S. Reyes school in Chalan Kanoa for elementary school
9 because there was no elementary school in Tanapag at that time. Asako drove
10 and dropped her to school every day and picked her up when the school was
11 over. Tr. 264-265.

12 10. After graduating from elementary school, Dolores went to Hopwood Junior High
13 School and then Mariana High School using the bus service once a bus was
14 available. Tr. 265-269. Dolores took the bus from Tanapag to school and then
15 returned by bus at the end of the day to Tanapag.

16 11. When Dolores was in school, Estefania Mendiola ("Estefania"), Asako's sister,
17 was living in Chalan Kanoa and Dolores would stay with her about once a week.
18 Tr. 266, ll. 8-13.

19 12. Dolores had her own room in Tanapag. She slept there and kept all her
20 belongings there. Tr. 267, ll. 16-22.

21 13. When Dolores was living in Tanapag, she had siblings. Anthony, Rudy, Joaquin,
22 and Froilan Junior. After Dolores left the Tanapag home Annette was adopted.
23 Tr. 268, ll. 3-9.

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- 1 14. Dolores helped Asako to take care of her siblings and she considered them as her
2 brothers and sisters. The siblings listened to Dolores and treated her as their
3 oldest sister. Tr. 268-269; Tr. 576, ll. 3-25.
- 4 15. Dolores started working before graduating from high school and she gave her
5 income to Asako to support the family. Tr. 269, ll. 5-25. Dolores used her salary
6 to support the family because she considered Asako's family her own family. Tr.
7 268- 269.
- 8 16. Dolores testified that when she became the first woman police officer, Asako cut
9 her hair, braided and kept it with the family albums as a souvenir. Dolores
10 testified the hair is now missing, as are the family albums. Tr. 614-615.
- 11 17. Dolores had several boyfriends. They went to Asako and Froilan to ask for
12 consent to marry Dolores. Tr. 270, ll. 16-23. Dolores introduced her boyfriends
13 to Asako because Asako was her mother and Asako expected Dolores to bring
14 the man she was going to marry to her for her approval. Tr. 278, ll. 10-18.
- 15 18. The first one who went to Asako and Froilan for permission to marry Dolores
16 was Joaquin Jones Castro. He went to them with his four sisters. His proposal
17 was rejected as at that time, Dolores was younger than 18 years old. Tr. p.271, ll.
18 1-20.
- 19 19. The second one who went to Asako and Froilan for permission to marry Dolores
20 was also rejected by Froilan. Tr. p.271-272.
- 21 20. The third one who went to Asako and Froilan for permission to marry Dolores
22 was Jesus Lizama San Nicolas ("Jesus"). Jesus and his family all went to
23 Asako's house. Asako and Froilan did not want to accept the marriage as Jesus
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1 was 15 years older than Dolores. However, Dolores was pregnant, so the
2 marriage was accepted. Tr. 272-273.

3 21. Dolores was 21 when she married Jesus and Dolores moved out of the Tanapag
4 home of her parents to her first house with her new husband in Fina Sisu. Tr.
5 274, ll. 9-11. Dolores contacted Asako almost every day and they visited each
6 other frequently after Dolores moved out, as this was expected by Asako. Tr.
7 274-275.

8 22. Dolores later moved to Marpi which is close to Tanapag. Dolores was able to
9 visit Asako more frequently once she moved to Marpi. Dolores and Asako kept
10 their close relationship going until Asako passed away. Tr. 274-275.

11 23. Estefania, Asako's sister, treated Dolores as her own child as she has no children
12 of her own except for Dolores' son. Tr. 275-276. Estefania and Asako were very
13 close to each other. Tr. 276, ll. 12-13.

14 24. Dolores did not regularly stay with Estefania until Estefania fell ill. Before
15 Estefania became ill Dolores did not have cloth or her own room at Estefania's
16 place. Tr. 282, ll. 1-19. Asako also limited Dolores' time with Estefania. (Tr.
17 277, ll. 11-12.

18 25. Dolores's son Patrick was adopted by Estefania and Jesus Arriola. Patrick lived
19 with Estefania after he was six years old. Dolores helped Estefania and Patrick.
20 Tr. 277-278.

21 26. Isabelle Villagomez ("Isabelle"), Estefania's neighbor, testified that she knew
22 Patrick as Dolores's son, but Estefania was the one who raised Patrick. Tr. 250-
23 251. Isabelle also knew that Asako was the one who raised Dolores. Isabelle
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1 testified that she knew this because she met Asako on the road many times and
2 Asako introduced Dolores as her daughter. Tr. 249, ll. 16-19.

3 27. Soledad, Asako's close friend also knew Estefania as Estefania always went to
4 her house when her husband was working at San Vicente School. Tr. 244, ll. 19-
5 25. She also only knew Patrick as Estefania's child. Tr. 250, ll. 4-5.

6 28. Patrick had a gambling problem, and he lost a lot of Estefania's money because
7 of that. Tr. 287-290.

8 29. Estefania gave a power of attorney to Patrick. Tr. 286, ll. 16-18. After receiving
9 the power of attorney, Patrick leased Estefania's real property for \$76,000 and
10 kept all the money to himself. Tr. 286-287.

11 30. Estefania was bedridden at that time, and she notified Dolores about this
12 transaction. Dolores found out what Patrick had done. Tr. 287, ll. 7-14. Estefania
13 got Dolores involved to help Patrick by asking Dolores to take care of her estate
14 so that Patrick would not continue selling her property. *Id.*

15 31. Estefania passed away and Dolores became involved in the probate of
16 Estefania's estate as Patrick was still addicted to gambling. Tr. 287, ll. 18-20.
17 Patrick was raised by Estefania and was a *poksai* adopted child. Dolores was also
18 a *poksai* child as Asako sometimes sent her to Estefania and Estefania took care
19 of Dolores. Tr. 287-288. Dolores listed herself as a *poksai* child in the final
20 distribution of Estefania's estate.

21 32. Dolores called Asako "my mother". Dolores called Estefania Nan Nia. Dolores
22 calls her grandparents Nana and Tata. Tr. 290, ll. 10-22.

23 b. Court Findings of Fact for Annette P. Cruz

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1. Annette Palacios Cruz was born on October 10, 1972, on Saipan, Commonwealth of the Northern Mariana Islands. Tr. 19.
2. Annette's biological mother was Esperanza Ulloa Palacios and her biological father was Augustin Palacios Tudela. Tr. 19; Ex. F.1-F.2.
3. Asako and her husband, Froilan Tudela, were the aunt and uncle of Annette. Ex H.1.
4. About twenty days after Annette was born, on October 30, 1972, Asako asked to legally adopt Annette. Tr. 19-20; Ex. H.1.
5. On November 7, 1972, Froilan Tudela and Asako filed a petition to adopt Annette with the consent of Annette's biological parents, and to change her name from Pamela Ulloa Palacios to Annette Mendiola Camacho. Ex. H.1.
6. Also on November 7, 1972, Annette's natural parents filed their Consent to Adoption. Ex. G.1.
7. On November 12, 1972, the District Judge of the Mariana Islands District entered a Decree of Adoption, granting the adoption of Annette to Asako and her husband and changing the infant's name to Annette Mendiola Camacho. Ex. E.1-E.2.
8. Annette was raised by Froilan and Asako in their family home in Tanapag. Tr. 24-25.
9. Annette grew up with the natural children of Froilan and Asako, namely, her siblings Rudolfo Camacho, Anthony Camacho, Joaquin Camacho, and Froilan Camacho, Jr. Tr. 24-25.

- 1 10. Annette attended school while being raised by Asako in the family home,
2 attending Tanapag Elementary School, Hopwood Junior High School, and
3 Marianas High School. Tr. 25. 11.
- 4 11. Asako made sure Annette got up and went to school every day. Tr. 30.
- 5 12. When Annette was sick and needed to go the doctor, it was Asako that would
6 take Annette and care for her. Tr. 30.
- 7 13. The family ate dinner together in the evenings, along with their *tita*. Tr. 30.
- 8 14. Asako ran a family business of a laundromat and mini store which was close to
9 the family home. Tr. 61-62.
- 10 15. Annette helped with the family business growing up, working as a cashier. Tr.
11 62.
- 12 16. In approximately 1982, Froilan Tudela was lost at sea. Tr. 63-64.
- 13 17. Annette remembered her father Froilan, along with her mother and siblings, by
14 going to the ocean to drop flowers and going to church on his death
15 anniversaries. Tr. 64.
- 16 18. Annette was never told by Asako or anyone in her family that Annette was not
17 the natural child of Asako. Tr. 25-26.
- 18 19. While a child, Annette only knew her natural parents to be her “aunty and uncle”
19 as Asako described them to her. Tr. 38.
- 20 20. While a child, Annette did not visit her natural parents’ home, and instead her
21 natural parents (whom she knew to be her aunt and uncle) would come to
22 Asako’s house while Annette was in elementary school, “because they’re
23 family.” Tr. 38.
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- 1 21. Even during these visits in elementary school, however, Annette did not spend a
2 lot of time with her natural parents, and Asako would at times have Annette go to
3 her bedroom during these visits. Tr. 38.
- 4 22. Annette was in Junior High School when she was surprised by another student
5 who told her that Annette had “other siblings” (meaning the other children of
6 Annette’s natural parents) that also attended Hopwood Junior High School. Tr.
7 25.
- 8 23. When Asako found out that another student had told Annette that she was
9 adopted, Asako was upset and went to the school office to gather the people
10 talking about the adoption and ask why they were talking about Annette’s
11 adoption. Tr. 26.
- 12 24. Annette was the only daughter of Asako at home with her four brothers. Tr. 29.
- 13 25. Annette had a loving relationship with her mother Asako, and Asako called her
14 names like “princess” and “doll” along with her given name of Annette. Tr. 29.
- 15 26. Because Annette “was a girl,” Asako had Annette stay home with her, while
16 allowing her sons to go out, because “they were boys.” Tr. 29.
- 17 27. Annette thus often stayed home in obedience to her mother Asako, even though
18 she felt left out when her brothers were able to do things like go out to the
19 movies. Tr. 29.
- 20 28. Annette and her natural brother, Augustin Palacios, both attended Marianas High
21 School, being one year apart. Tr. 28.
- 22 29. When Annette was 17 years old, on or about January 13, 1990, Augustin
23 Palacios told Annette to ‘pack her stuff because they were going to Utah.’ Tr. 8;
24 Ex. A.8.

- 1 30. Annette was 17 years old and excited to leave Saipan as she had never traveled
2 from the CNMI before, and even at home on Saipan, she spent most of her free
3 time at the family home. Tr. 30-31.
- 4 31. Annette did not tell her mother she was going to Utah because she feared
5 Asako's reaction and that Asako would not let her go. Tr. 31.
- 6 32. Annette was scared that Asako would not allow her to go to Utah because Asako
7 did not let her go "anywhere." Tr. 31.
- 8 33. Three days after Augustin told Annette they were leaving, Annette left the family
9 home while Asako was sleeping and got on a plane to Utah on approximately
10 January 16, 1990. Tr. 31; Ex. A.8.
- 11 34. Annette left at night while Asako was sleeping, otherwise Annette felt that
12 Asako would have prevented her from leaving, as Asako was watchful over her
13 daughter. Tr. 32.
- 14 35. Upon arriving in Utah, Annette lived with her natural brothers, Joaquin and
15 Augustin Palacios, her natural sister, and Joaquin Palacios's wife and children.
16 Tr. 32.
- 17 36. Annette did not attend high school in Utah for very long and eventually stopped
18 attending at the 10th or 11th grade. Tr. 33; Tr. 95.
- 19 37. Annette found herself homesick for Saipan and missing her mom Asako. Tr. 33.
- 20 38. Annette did not talk to Asako while she was in Utah because she was afraid of
21 how Asako would be given that Annette had left Saipan without her mother's
22 permission. Tr. 33.
- 23 39. Annette was in Utah in total for about one year on this trip, and during this time
24 Joaquin Palacios gave Annette a document to sign, telling her to sign it because

1 Asako did not want to be responsible for Annette if something happened to her
2 while she was in the United States. Tr. 34.

3 40. Annette did not realize that the effect of the document she signed, a Consent to
4 Adoption, was to consent to her natural parents adopting her, and to change her
5 name to Pamela Ulloa Palacios. Exhibit I.1-I.2, Tr. 36.

6 41. But Annette did understand that Asako did not want to be responsible for
7 Annette while Annette was living away from Asako in Utah, with her natural
8 brother, and no longer under Asako's hand. Tr. 36; 101.

9 42. Annette signed the Consent to Adoption¹ on March 27, 1990, while she was still
10 a minor and about two months after she had run away. Ex. I.2; Ex. A.8, Tr. 35.

11 43. The Superior Court of the CNMI issued the Decree of Adoption of Annette to
12 her natural parents on April 16, 1990, and changed her name to Pamela Ulloa
13 Palacios. Ex. I.6-I.7.

14 44. The Decree of Adoption noted that Annette was in Utah and not present at the
15 adoption hearing, and that Annette was 17 years old. Ex. I.6-I.7.

16 45. While Annette was unaware of the effect of the adoption at the time she signed
17 the consent, she later became aware that it meant that her natural parents had
18 adopted her back. Tr. 100. 46.

19 46. After about a year in Utah, Annette returned to Saipan. Tr. 38.

20 47. At the time Annette arrived in Saipan, Annette's natural father was in the
21 Philippines, but when he returned, the plan was that her natural father would
22 accompany Annette to take her back to Asako's home in Tanapag. Tr. 39.

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¹ CNMI Supreme Court Associate Justice John A. Manglona represented Annette's biological parents Esperanza Ulloa Palacios and Augustin Palacios Tudela in the adoption proceedings in 1990.

- 1 48. However, before her natural father could come home, Annette heard from a
2 cousin that Asako wanted Annette to come home to her and Annette did not wait
3 for her natural father to return. Tr. 39-40.
- 4 49. About one month after coming back to Saipan, Annette went back home to her
5 mother Asako. Tr. 39.
- 6 50. Annette recalls that when she arrived home to Asako's house, Asako was outside
7 the restroom and Annette called out for her. Tr. 40.
- 8 51. Asako saw Annette and began crying very loud, and Annette cried with her
9 mother. Tr. 40.
- 10 52. Asako did not cry very often, but that day, she cried loudly. Tr. 40.
- 11 53. Annette went to her natural parents' home to retrieve her belongings, and told
12 them that Asako was calling her back to her home. Tr. 40.
- 13 54. After this incident of Annette leaving Asako without permission, Asako's
14 relationship with Annette's natural mother became strained, with Asako saying
15 she hated Esperanza and did not like her, even years later. Tr. 46.
- 16 55. Annette then lived with Asako in Saipan until Asako married her second
17 husband, Michael Magofna. Tr. 41.
- 18 56. After Asako married Michael Magofna, Asako and her new husband, and
19 Annette went to Kansas for about a month for Asako's honeymoon. Tr. 41-42.
- 20 57. At the time, Annette was 18 or 19 years old and the year was approximately
21 1991. Tr. 41- 42.
- 22 58. From Kansas, Asako paid for Annette's airfare to go to Utah, and Asako and her
23 husband went home to Saipan. Tr. 42.
- 24 59. Annette stayed in Utah from her arrival in 1991 to 1993. Tr. 42.

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60. Upon arriving back in Utah in 1991, Annette gave birth to her first child, named Asako Renee. Tr. 42-43.

61. Asako gave the child her first name, Asako, while Annette gave the child her middle name, Renee. Tr. 43.

62. After the birth of Annette's first child, Asako paid the airfare for Annette and the baby to visit Saipan. Tr. 44.

63. Annette's second child was also born in Utah, named Maleio Froilan. Tr. 43.

64. Like Annette's first child, Annette gave the second child its first name of Maleio, while Asako gave the second child its middle name of Froilan. Tr. 43.

65. After the birth of Annette's second child, Asako again paid the airfare for Annette and her grandchildren to visit Saipan. Tr. 44.

66. By 1993, Asako paid for Annette's airfare to move back to Saipan with the children, as Annette's natural father had just passed away. Tr. 44-45.

67. Upon moving back to Saipan in 1993, Annette and her children moved into a house with her brother (and Asako's son) Joaquin Camacho on the family compound in Tanapag, while Joaquin built a small house next to his house for Annette and her children. Tr. 113- 114.

68. After Joaquin finished building the house next to his, Annette moved into the small house with her children, in the family compound with Asako and the other brothers. Tr. 114.

69. Annette had her third child in 1993 on Saipan, whom her brother Tonnei named Divelle Tonnei, and her fourth child in 1995, whom Annette and Tonnei named together Malcom Justin. Tr. 46.

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70. When Divelle and Malcom were born, Asako and Tonnei visited Annette in the hospital, but Annette’s natural mother did not visit Annette. Tr. 46-47.

71. Annette’s twins, Darsha and Darshae were born in 1996 on Saipan, named by Tonnei, and again Tonnei and Asako visited Annette in the hospital. Tr. 47.

72. Annette’s following children, Shawn Michael (2000), Zandrea Beyonce (2001), Travis Evander Benedict Cruz (2004), were all also born on Saipan and Tonnei and Asako visited Annette in the hospital after their births. Tr. 48-49.

73. Asako gave Annette’s last child the name “Benedict” after the saint, because he was a sick baby and had Down’s Syndrome. Tr. 48.

74. Annette’s children called Asako “Grandma” and Asako referred to Annette’s children as her grandchildren. Tr. 49.

75. In 2000, Annette moved to Tinian and Asako would come visit Annette and the children about one or twice a month or Asako would have Annette come to Saipan to visit. Tr. 49.

76. During this time in 2000, Asako wanted Annette to change her name back to the name Asako had given her. Tr. 56.

77. So, on September 25, 2000, upon Annette’s request, the Court changed Annette’s name from Pamela back to the name Asako had given her, Annette. Tr. 56-57; Ex.K.1-K.2.

78. Family photos of important family occasions are memorialized in family photographs of Asako and her children, which include Annette in them. Tr. 64-67; 58.

- 1 79. Asako and her family went to the San Roque Parish, which had a fiesta every
2 year which was memorialized in a program wherein families of the church would
3 send in photos. Tr. 57-58; 84; 86.
- 4 80. Asako submitted photos for the program including a photo of Annette with
5 Asako and the rest of the siblings at Rudolfo's novena in 2004 describing
6 "Asako M. Camacho Magofna and her children." Tr. 59; Ex. M.1-M.4.
- 7 81. Asako prepared a program for her first husband Froilan Tudela's 20th death
8 anniversary on December 8, 2002, which included a tribute from the family to "a
9 loving husband and father who lives in our hearts", which read:
10 "Twenty years later we gather here to pay our tribute to a loving husband, father,
11 grandfather, great-grandfather and friend. With four grown sons, a daughter and
12 three reared children together with their families and friends, Lang would have
13 felt very happy and complete with his life." Tr. 65.
- 14 82. The passage ends with "Si Yu'us Ma'ase You Will Always Be In Our Hearts and
15 Prayers," followed by "Asako Camacho Magofna and children." Tr. 66.
- 16 83. The death anniversary program includes photos of Froilan, the children, a family
17 photo of Froilan, Asako, Annette, Rudy, Joaquin, Anthony, and Froilan Jr., and a
18 photo of Asako and Annette. Tr. 66-67; Ex. D.1-D.13.
- 19 84. A journal book found in Asako's belongings and in Asako's handwriting lists
20 records that Asako kept, such as family information, and a record of chenchule.
21 Tr. 68-71; 73-76.
- 22 85. Asako was known to keep record books that kept records such as her working
23 hours, calendar events, food stamp schedules, child support schedules, etc. Tr.
24 70.

- 1 86. The journal book lists a family record which includes the names and dates of
2 birth of Father Froilan T. Camacho, Mother Asako, David M. Camacho, Froilan
3 M. Camacho, Anthony M. Camacho, Rudolfo M. Camacho, Joaquin M.
4 Camacho, Annette M. Camacho, and Froilan M. Camacho, Jr. Tr. 71-72; Ex.
5 A.4.
- 6 87. The family record includes the name of two of Asako's first two children who
7 had died, David M. Camacho and Froilan M. Camacho. Tr. 72.
- 8 88. Another page of the record book lists Annette and her siblings, along with their
9 hospital numbers. Tr. 72-73; Ex. A.5.
- 10 89. The following page of the record book is titled "The birth of my children" and
11 lists on two pages the dates and names of Annette, and Asako's other children,
12 along with their weights and lengths. Tr. 73-74; Ex. A.6-A.7.
- 13 90. Asako included a note under Annette's name and weight and length, noting her
14 adoption information. Tr. 74; Ex. A.7.
- 15 91. On the following page of the record book, Asako wrote on January 17, 1990, that
16 Annette ran away from the house on January 16, 1990, at 12:30, and was stolen
17 away by her brother Joaquin. Tr. 74-75; Ex. A.8.
- 18 92. After that entry about Annette running away, there is another entry listing
19 Annette's family with her husband and several of her children. Tr. 75.
- 20 93. Annette moved from Tinian to the family home to assist in caring for Asako
21 which she did from 2016 to 2017 until Rudy and his wife moved Asako from her
22 home to their own home. Tonnei Transcript p. 943.

23 **III. LEGAL STANDARD**

24

1 a. There is not yet a definitive standard to use when determining whether an individual
2 was adopted through the Chamorro custom of “poksai.”

3 The Supreme Court of the Northern Mariana Islands has rendered several decisions that deal
4 with the issue of *poksai*², but they often do not deal specifically with the question of whether an
5 individual was adopted through *poksai* or not, and none of the cases explicitly state factors that the
6 courts should use to determine whether a person was adopted through the *poksai*. More often these
7 cases deal with issues related to *poksai*, rather than the issue of *poksai* itself.

8 In *In re Estate of Cabrera*, 2 N.M.I. 195 (1991) for example, the Court examined whether or
9 not a *partida*³ had occurred that conveyed the decedent’s testamentary wishes pursuant to
10 customary law. On the issue of whether the claimants were *pineksai*, the Court simply stated
11 “[e]vidence adduced at the hearing showed that Pepe [the decedent] gave Bernadita [the claimant] a
12 portion of his property in Chalan Piao because he raised her by ‘poksai’, and wanted her to have a
13 share of his land.” *Id.* at 199. The Court did not offer any factors that courts should consider when
14 determining a person was adopted through *poksai*, but the Court did note the claimant’s young age.
15 “Pepe and his wife Maria took Bernadita, as a little girl, into their home and raised her, under
16 “poksai” as though she were their natural child.” *Id.* However, the Court did not note the specific
17 age Bernadita was when Pepe and Maria adopted her through *poksai*.

18 This Court requested the trial court’s records of *Cabrera*, which is Civil Action No. 88-
19 582P, in an attempt to more deeply examine which factors the trial court considered when
20 determining that a person was adopted through *poksai* and to discover the specific age Bernadita

21 _____
22 ² “Poksai” means the raising of a child as though the child were a natural and legitimate child.” *In re Estate of Cabrera*,
23 2 N.M.I. 195, 198 n.1 (1991). “Pineksai” is a person who is being raised or has been raised under “poksai.” *In re Estate*
24 *of Cabrera*, 2 N.M.I. 195, 201 n.2 (1991). The Court has also written that “poksai” is a Chamorro custom involving the
raising or nurturing of a child by an adult or adults other than the child’s biological parents. *In re Estate of Ayuyu*, 1996
MP 19 ¶ 5.

³ “A partida is the distribution of family land holdings under Chamorro custom.” *In re Estate of Castro*, 4 N.M.I. 102,
110 (1994)(internal citation omitted).

1 was when she was adopted through *poksai*. However, the records have been transported to Rota,
2 and they could not be located.

3 In the case of *In re Estate of Castro* 4 N.M.I. 102 (1994), the Supreme Court examined
4 whether the decedent's written *testamento*⁴ satisfied the requirements for a *partida*, and simply
5 accepted the trial court's findings that the decedent and his wife had raised their grandson pursuant
6 to the custom of *poksai*. *Id.* at 106. In *Castro*, the Court found that *partida* can be flexible to reflect
7 the intent of the decedent. "[T]he means by which a *partida* is accomplished are flexible and
8 determined on a case-by-case basis. *See, e.g., In re Estate of Cabrera*, 2 N. Mar. I. 195, 207-08
9 (1991). One of the main reasons for the flexibility is that the intent of the decedent is paramount
10 and must be effectuated where discerned." *Id.* at 110 (internal citation omitted). Once again, the
11 trial court's records for this case, which was Civil Action No. 93-147, could not be found.

12 The case of *In re Estate of Ayuyu* also deals more directly with the issue of whether a
13 *partida* occurred, rather than the issue of *poksai* itself. On its initial appeal, the Supreme Court
14 remanded the case back to this Court to determine whether or not a *partida* had occurred, but the
15 Supreme Court accepted this Court's determination that the claimant was adopted through *poksai*.
16 Interestingly, while the Supreme Court agreed the claimant in the case was *pineksai*, she did not
17 receive the land she sought due to the fact the Supreme Court found a *partida* had occurred, and
18 this *partida* distributed the claimed land to another party. "We hold, therefore, that the trial court
19 did not commit clear error in finding that a *partida* was performed, and that under the *partida*,
20 Corbiniano received the Unginao land." *In re Estate of Isabel Songao Ayuyu*, 1996 MP 19 ¶ 9.

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22
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24 _____
⁴ "A *testamento* is a written *partida* which 'preserves in writing the intent and directions of the male head of the family in regard to distribution of the family's property.'" *In re Estate of Castro*, 4 N.M.I. 102, 110 (1994) quoting *In re Estate of Torres*, 1 CR 237, 244 (D.N.M.I. App. Div. 1981).

1 Even though *Ayuyu* deals more with *partida* than *poksai* and it did not provide any rationale
2 for why a person is *poksai* or not, it is still informative for this Court. The second Supreme Court
3 opinion on this case notes the age of the claimant at the time she was adopted through *poksai*,
4 which was six months old. “In April 1936, Perpetua gave birth to Maria. Six months later, Perpetua
5 transferred the case and custody of Maria to her parents, Juan and Isabel. This arrangement in
6 Chamorro as poksai, a custom involving the raising or nurturing of a child by an adult or adults
7 other than the child’s biological parents.” *In re Estate of Isabel Songao Ayuyu*, 1996 MP 19 ¶ 2.

8 For this case, the trial court records do exist, and the trial court also noted the young age at
9 which the claimant was transferred into the care of her adoptive mother. The only finding of fact the
10 trial court issued related to the claimant’s status as being adopted through *poksai* is its third finding
11 of fact, which states, “At the age of six (6) years, Claimant Aguon’s mother, who was the daughter
12 of the Decedent, transferred the care and custody of Aguon to the decedent.” *In re the Estate of*
13 *Ayuyu*, Civ. Action No. 89-863 (N.M.I. Super. Ct. Nov. 8, 1990)(Decision and Order at 2),
14 *remanded*, 2 N. Mar. I. 243 (1991), *appeal after remand pendine*, No. 94-032 (N.M.I. filed Aug. 1,
15 1994).⁵ This Court notes that the trial court did state the claimant was transferred to the decedent at
16 the age of six (*Id.*), while the Supreme Court stated in its opinion this transfer of care occurred
17 when the claimant was six months old. *In re Estate of Isabel Songao Ayuyu*, 1996 MP 19 ¶ 2. This
18 is most likely due to a clerical error as other filings in the Superior Court state the claimant was six
19 months old when the transfer of her care occurred. “Maria was referred to Isabel at 6 months.” *In*
20 *re the Estate of Ayuyu*, Civ. Action No. 89-863 (N.M.I. Super. Ct. filed Oct. 31, 1990)(Rebuttal
21 Argument at 2). This Court considers the fact that the claimant in *Ayuyu* was transferred from her
22

23 ⁵ In its decision *In re Estate of Isabel Songao Ayuyu*, 1996 MP 19, the Supreme Court cites the Superior Court decision
24 as both Civil Action Number 90-863 (see footnote 8) and Civil Action Number 89-863 (see footnote 10). This court
notes that in the official trial records produced, the Superior Court case number in the Decision and Order rendered
November 8, 1990 does read “90-863,” but the number “90” has been crossed out and “89” rewritten above it. In all
previous court filings for said case, the Superior Court case number reads “89.”

1 biological mother to her adoptive mother at a young age as a probative factor courts may use to
2 determine if a claimant was adopted pursuant to *poksai*, especially in the light of subsequent
3 development in the common law on the topic of *poksai* in the C.N.M.I.

4 The trial court in *Ayuyu* also used the preponderance of the evidence standard. “Based upon
5 the [preponderance] of the evidence introduced by the parties and admitted by the Court at the
6 hearing of this matter, the Court makes the following findings . . .” *In re the Estate of Ayuyu*, Civ.
7 Action No. 89-863 (N.M.I. Super. Ct. Nov. 8, 1990)(Decision and Order at 2), *remanded*, 2 N. Mar.
8 I. 243 (1991), *appeal after remand pendine*, No. 94-032 (N.M.I. filed Aug. 1, 1994).

9
10 *In Re Estate of Macaranas* is important in the development of how the Court looks at the
11 issue of *poksai*. First, *Macaranas* is important because it too examined the facts of the case using a
12 preponderance of the evidence standard. “[T]he trial court ruled that although the Grandchildren
13 were raised as natural and legitimate children according to the custom of *poksai*, they were not
14 entitled to inherit as customary adopted children because the Grandchildren had not proved by a
15 preponderance of the evidence that ‘the Chamorro custom of *poksai* is intended to serve as a
16 customary adoption for purposes of inheriting under the Probate Code.’” *In Re Estate of Andres G.*
17 *Macaranas*, 2003 MP 11 ¶ 8. This standard is probative of what courts must demand of claimants in
18 order to prove they were adopted pursuant to *poksai*, including in this case. Additionally, the Court
19 stated that “once a customary adoption – including a *poksai* where the *pineksai* have been raised as
20 natural and legitimate children – has been proven, the customary adopted children are entitled to
21 inherit from the decedent’s estate as the decedent’s issue.” *Id.* at ¶ 17.

22 *Macaranas* is important for its ruling that *pineksai* are able to inherit the same way that a
23 natural born child would inherit, as previously there was some question about what *pineksai*’s
24 inheritance rights are. “The sum of our statements regarding *poksai* and *pineksai* reveals two

1 important and incontrovertible points: (1) pineksai who are raised as natural and legitimate children
2 are customary adopted children; and (2) the Chamorro custom for such pineksai to receive property
3 from their adoptive parents is embodied in the statutory language of 8 CMC § 2918(a). *In re Estate*
4 *of Andres G. Macaranas*, 2003 MP 11 ¶ 17.

5 *Macaranas* represents a shift in the Court’s considerations about *poksai*, as the previous
6 cases involved the issue of *partida*. There was no *partida* in this case, yet the Court still awarded
7 the *pineksai* an inheritance. “The specific holding of *Cabrera* is inapposite here, because Andres
8 did not perform a *partida* prior to his death and because *Cabrera* did not concern current Probate
9 Law.” *Id.* at 13. The fact the Court allowed *pineksai* to inherit without a *partida* shows courts this
10 element does not have to be proven in order to award *pineksai* an inheritance, which is relevant to
11 the facts of this case.

12 Like the previous cases, *Macaranas* did not issue any specific factors or standards that
13 courts should consider when determining whether or not a person was adopted pursuant to *poksai*.
14 However, the Court stated there may be different types of *poksai*. “*Ayuyu* may turn out to represent
15 this Court’s first step toward recognizing that there may be different types of *poksai*, some of which
16 involve raising a *pineksai* as a natural and legitimate child, and some of which may involve raising
17 a *pineksai* in some other way.” *Id.* at P16. The Court did not elaborate as to what those different
18 types of *poksai* are. However, during the Administrator’s closing argument at the trial level in
19 *Ayuyu*, he proposed there were two types of *poksai*.

20 According to Reynaldo Atalig Manglona, an expert witness on Chamorro custom of
21 poksai, there are two kinds of poksai. The first one is when a natural mother of the
22 child gives her own child to be raised by another, who then raises the child as her own
23 child. This kind of adoption is not hidden from any one and all relatives normally are
informed of such adoption. The second one is when a natural mother gives the baby
to her sister, who will then raise the child as her own.

24 *In re the Estate of Ayuyu*, Civ. Action No. 89-863 (N.M.I. Super. Ct. filed Oct. 10, 1990)(Closing
Argument on the Evidentiary Hearing on Aguon’s Claim at 2).

1 The definition of the two types of *poksai* was not cited in the trial court’s Final Decision in
2 *Ayuyu*, but its appearance in the Closing Argument shows there is not one standard, clear-cut
3 example of when *poksai* occurs. This ambiguity of when *poksai* has resurfaced in this case, as
4 evidenced by the fact that two experts testified there were not two, but four different times *poksai*
5 might occur. The examples provided by each witness as to when *poksai* might occur have some
6 similarities, but are not exactly the same. Escolastica Aldan Agulto (“Escolastica”) testified there
7 were four non-exhaustive types of *poksai*:

- 8 a. Two siblings, where one sibling does not have any kids and another who has a
9 lot of kids. The former takes burden from the latter and raises the kid for her
10 own. Tr. 215, ln. 1-6.
- 11 b. Two couples, or grandparents of a child, take care of a young child while the
12 young child’s parents find employment and work to support their family.
13 Eventually, when the couple raising the grandchild passes, the young child’s
14 parents take back their child. Tr. 215, ln. 15-25; Tr. 216, ln. 1-10.
- 15 c. Two sisters who raise a child and dividing the responsibility for taking care of
16 the child. Tr. 216, ln. 11-17.
- 17 d. An elderly individual or couple who needs care would raise a child as if they
18 were their own to care of them. Tr. 217, ln. 5-25; Tr. 218, ln. 1-11.

19 Donald Mendiola also testified there were several main types of *poksai* and the type of *poksai*
20 will be a factor on whether they will inherit from the adopting party’s estate:

- 21 a. “[A] couple may not be able to have their own child, children, so they adopt,
22 they *poksai*.” Asako Tr. 553, ln. 13-15.
- 23 b. “[T]hen there will be a times when maybe the mother would die and it’s just the
24 father left and the father just raise the baby and so maybe a family member will

1 take that child to poksai that child, not necessarily say to poksai and to give
2 inheritance, that's the part where I have to say the difference." Asako Tr. 553, ln.
3 15-20.

4 c. "Another way is when a, when the parents, either one or both of them are
5 working and they and do not, they cannot stop working just because they can
6 raise the child, then the grandparents can take the child, adopt or just raise the
7 child but not for so long because these are grandparents and they're [sic], we
8 can't guarantee if you going to live long until the kid becomes a mature because
9 so they can take the child and raise the child." Asako Tr. 554, ln. 14-20.

10 d. "[A]nother way is when a parent or both parents don't want to raise that child,
11 part of wedlock maybe or because they didn't feel like it was an accident that
12 occurred so they just didn't want to get rid of the pregnancy because of the
13 religion and what the family has talk and say about that then they can give up the
14 child for adoption, well in Chamorro adoption, give up that child to be poksai
15 and not to take the child back because they've given up the child, in that case, the
16 child will be brought up as a poksai and will become a true member of the other
17 family that raises the child and not the biological parents, because they gave up
18 that child." Asako Tr. 554, ln. 14-25; Asako Tr. 555, ln. 1-6.

19 It is obviously difficult for courts to determine when someone is adopted pursuant to *poksai*
20 when the idea of what constitutes *poksai* is somewhat fluid. The trial court in *Macaranas* did not
21 delve deeply into why it decided to rule that the grandchildren had been adopted pursuant to *poksai*.
22 However, it did do some analysis that is persuasive in this case. The trial court found that "The
23 [grandchildren] received benefit checks from Andres' Social Security. The [grandchildren] were
24 individually listed as either "sons" or "daughters." *In re Macaranas*, Civ. Action No. 01-0136

1 (N.M.I. Super. Ct. Apr. 3, 2002)(Findings of Fact and Conclusions of Law at 3). Furthermore, the
2 Superior Court found the preponderance of the evidence supported the assertion the claimants had
3 been adopted pursuant to poksai based upon the fact their care had been transferred to the decedent
4 at a young age. “The [grandchildren] lived with [Andres] and [Petra] almost from birth.” *Id.* Most
5 of them also continued to live in the house where they had been raised into adulthood. *Id.* There
6 was also testimony there were birth and baptismal certificates that indicated the grandchildren were
7 the children of the decedents. However, the documents themselves were not admitted into evidence
8 as they could not be verified. *Id.* at 4. The trial court’s findings show that once again, the young age
9 of the claimants is a major factor in determining whether or not a person is *pineksai*, and they show
10 that witness testimony is often used in customary adoption cases, sometimes more persuasively than
11 documentary evidence.

12 *In re Estate of Rios* examines inheritance for a person adopted through *poksai*, specifically
13 finding that the doctrine of laches was inapplicable to the case and the claimant was not barred from
14 making her claim on the decedent’s estate, and as the Court found the claimant had been adopted
15 through *poksai*, she was entitled to inherit from the decedent who died intestate. *In re Estate of*
16 *Rios*, 2008 MP 5. The Supreme Court did not analyze how or why a person is deemed to be adopted
17 through *poksai*, and it simply accepted the trial court’s findings of fact on the matter. “The trial
18 court determined that decedent adopted Maria Iglesias through the Chamorro custom of ‘poksai,’
19 and that decedent raised Maria Iglesias as ‘pineksai.’” *Id.* at ¶ 2. The Supreme Court examined the
20 trial court’s proceedings for a clearly erroneous mistake in the trial court’s determination that the
21 claimant was raised as *pineksai* by the decedent, and its analysis of said proceedings is very brief.

22 After a three-day trial, Maria’s heirs presented six witnesses and substantial evidence
23 that the trial court used to determine that decedent adopted Maria Iglesias through the
24 Chamorro customary adoption of *poksai*. Appellant’s Opening Brief at 4 P 2. Based
on the record and our analysis above we cannot say that the trial court clearly erred in

1 determining that decedent adopted Maria Iglesias through the Chamorro customary
2 adoption of poksai.

3 *In re Estate of Rios*, 2008 MP 5 ¶ 22.

4 The trial court’s Findings of Fact and Conclusions of Law do not delve deeply into why it
5 found the claimant was adopted through *poksai*, but it does make several relevant findings,
6 specifically Findings of Fact #11-13.

7 11. At the time of her death, the Decedent lived with Maria Iglesias, the person she
8 raised as pineksai,” and Maria’s husband.

9 12. Maria Dela Cruz, the daughter of Emelia and Ramon Dela Cruz, was adopted
10 through the Chamorro custom of “poksai.”

11 13. Rosa Sablan was a daughter of Maria and Jose Iglesias. Rosa Sablan stated that
12 the Decedent was living in the same house “because she was the one that poksai-ed,
13 that raised her and that she was still a young girl when they had asked for her to be her
14 child.”

15 *In re Estate of Rios*, Civ. Action No. 89-1144 (N.M.I. Super Ct. Feb. 17, 2004)(Findings of Fact
16 and Conclusions of Law at 2).

17 The trial court’s analysis in *Rios* does not state the age at which the claimant’s care was
18 transferred to her adoptive mother, only that it was when she was “still a young girl” (*Id.*), and the
19 court relied on the testimony of witnesses in order to produce its findings. Additionally, the Court
20 examined the fact that the claimant still lived with the decedent at the time of her death. These
21 findings are helpful to the Court in the present case.

22 A recent Superior Court case, *In re Estate of Acebo*, also helps this Court in its analysis of
23 whether the claimants are *poksai*. In *Acebo*, the Court further explained *Macaranas*’ “two important
24 and incontrovertible points: (1) pineksai who are raised as natural and legitimate children are
customary adopted children; and (2) the Chamorro custom for such pineksai to receive property
from their adoptive parents is embodied in the statutory language of 8 CMC § 2918(a).” *In re Estate
of Andres G. Macaranas*, 2003 MP 11 ¶ 17. *Acebo* analyzed what it meant to be “raised as a natural
legitimate child” by considering (1) whether the child was taken into the home of the adoptive

1 parent(s) at a young age and (2) whether the adoptive parent(s) wanted the *pineksai* to have a share
2 in his or her land. *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super Ct. Sept. 8,
3 2021)(Decision and Order at 7) citing *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 13 no. 2-
4 3. The Court in *Acebo* was tasked with determining whether the claimant Jewels Cabrera was
5 adopted through *poksai* by her aunt, Lucia Cabrera Acebo. This Court ruled that she was, and it
6 based its decision on several factors, including the following:

- 7 (1) The adoption pursuant to *poksai* occurred when the claimant was
8 young. “Jewels was taken into the home of Lucia as an infant and
thereafter raised by her.” *Id.* at 3.
- 9 (2) The decedent treated the claimant as her child, including by referring to
10 the claimant as her daughter, both with her family and in public. “Lucia
11 treated Jewels as her own child. When referring to Jewels amongst her
12 siblings, Lucia would refer to Jewels as her daughter. Additionally,
Lucia publicly referred to Jewels as her daughter. As an example, Lucia
13 listed Jewels as her daughter on a Bank of Guam form admitted as
14 Exhibit 7.” *Id.*
- 15 (3) The claimant treated the decedent as her legitimate mother. “Jewels
16 treated Lucia as her legitimate mother. Jewels has referred to Lucia as
17 ‘Mom’ for her entire life.” *Id.*
- 18 (4) The claimant was not aware that she was adopted until later in her life.
19 “Jewels was not even aware that she was ‘adopted’ until she was in
middle school. *Id.* at 4.
- 20 (5) The claimant’s biological parents were not involved with her life.
21 “Jewels testified that since her birth her biological mother has not been
involved with her life.” *Id.* at 5.
- 22 (6) The community and the family were aware that the claimant was the
23 daughter of the decedent. “Jewels was known to the family and the
community at large as the daughter of Lucia.” *Id.* at 6.

24 *Acebo* also used the preponderance of the evidence standard and relied heavily on witness
21 testimony. *Id.* These factors, including how the Court arrived at its conclusions, are helpful in
22 guiding the Court in this decision concerning Dolores Sablan Mendiola-Aldan and Annette P. Cruz
23 and their claims of adoption through *poksai*.

1 Thus, there are many factors for the courts to examine when deciding whether a person is
2 *pineksai* or not, but one of the many factors the courts have often focused on is the age when the
3 person was adopted, finding that a transfer of care at a young age supports the assertion that a
4 person was adopted through *poksai*. The evidence presented can often be very broad, but the courts
5 have consistently relied upon a preponderance of the evidence to find that what can often be a very
6 emotional and confusing situation, that it is more likely than not the person was adopted through
7 *poksai*, and this evidence is often introduced through the use of witnesses.⁶ What is abundantly
8 clear is that if a person is adopted through the customary practice of *poksai*, that person is able to
9 inherit from the decedent’s estate in the same way that a natural born child would.

10 *b. There are no statutes that provide a standard to use when determining whether an*
11 *individual was adopted through the Chamorro custom of “poksai.”*

12 The legislature has passed legislation affording individuals adopted through customary
13 practices the same protections as those adopted through statutory adoptions.

14 Except as provided for in 8 CMC § 1105, nothing contained in this division shall apply
15 to any adoption, annulment, or divorce effected in accordance with local custom, nor
16 may any restrictions or limitations be imposed upon the granting of an adoption,
17 annulment, or divorce in accordance with local custom.

18 8 CMC § 1419. Proceedings in Adoption, Annulment, or Divorce: Local Custom Recognized.

18 ⁶ Rule 702 of the CNMI Rules of Evidence states, “A witness who is qualified as an expert by knowledge, skill,
19 experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert’s scientific,
20 technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in
21 issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and
22 methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.” Expert witnesses
23 typically testify based on their academic experience or prior case testimony on a given matter. The “expert” witnesses
24 in this case, and with *poksai* cases generally, are testifying based on their family history and interpretation of events.
Donald Mendiola stated during his testimony, Tr. 470, ln. 8-13. “I’ve been told that I was being *poksai* by my
grandparents but you know I spending the weekend doesn’t really brought it for me to be a *poksai* kid but I guess when
they say that so I said okay but I did lived with my grandmother after my grandfather passed away in 1974. I followed
and I lived with her for three whole years.” These witnesses may be better labeled as lay witnesses under CNMI R.
EVID. 701. There is no explicit set of factors the court may use to determine if an individual was adopted pursuant to
poksai in the same way the court has the *Malite* factors to examine in the case of an adoption pursuant to *mwei mwei*. *In*
re Estate of Malite, 2011 MP 4 ¶¶ 12-14. Rather than leaving the issue of relevant factors to the courts to settle and
relying on experts testifying for their families, the legislature should consider adopting legislation that provides clear
guidelines as to what constitutes a customary adoption pursuant to *poksai*.

1 Customary adoptions are further protected by statute when they are in dispute in the CNMI.

2 (a) When an adoption, annulment, or divorce has been effected in the
3 Commonwealth in accordance with recognized custom and its validity is questioned
4 or disputed by anyone in a manner so as to cause serious embarrassment to or affect
5 the property rights of any of the parties or their children, any party thereto or any of
6 the party's children may bring a petition in the Commonwealth Trial Court for a decree
7 confirming the adoption, annulment, or divorce effected in accordance with
8 recognized custom. The petition shall be signed and sworn to by the petitioner
9 personally.

10 (b) If, after notice to all parties still living and a hearing, the court is satisfied that
11 the adoption, annulment, or divorce alleged is valid in accordance with a recognized
12 custom in the Commonwealth, the court shall enter a decree confirming the adoption,
13 annulment, or divorce and may include in this decree the date it finds the adoption,
14 annulment, or divorce was absolute until the period for appealing has expired without
15 any appeal having been filed or until any appeal taken shall have been filed or until
16 any appeal taken shall have been finally dispatched.

17 8 CMC § 1105. Proceedings in Adoption, Annulment, or Divorce: Confirmation in Accordance
18 with Recognized Custom.

19 The Code continues to provide protections for those adopted according to custom.

20 This chapter shall be liberally construed to the end that the best interests of adopted
21 children are promoted. Due regard shall be given to the rights of all persons affected
22 by a child's adoption. Nothing in this chapter shall be construed to impair any rights
23 or responsibilities created pursuant to customary Chamorro or Carolinian adoption.

24 8 CMC § 1419. Construction of Chapter; Rights of Persons Affected by Adoption.

While 8 CMC § 1419 is the current legal standard that protects the rights of individuals adopted
through customary practices such as *poksai*, it was not the law at the time either of the claimants in
this case were adopted by Asako through *poksai*. 8 CMC § 1419 did not take effect until January
21, 1994 (after the date of both Dolores and Annette's adoptions).

The statute in place at the time Dolores and Annette were adopted through *poksai* comes from
the Trust Territory Code. The Trust Territory Code had specific language that an adoption under the
Trust Territory Code was not intended to disinherit a child adopted either through statute or through
custom.

A child adopted under this title shall have the same rights of inheritance as a person

1 adopted in accordance with recognized custom at the place where the land is
2 situated in the case of real estate, and at the place where the decedent was a resident
3 at the time of his death in the case of personal property. Where there is no
4 recognized custom as to rights of inheritance of adopted children, a child adopted
under this chapter shall inherit from his adopting parents the same as if he were
the natural child of the adopting parents, and he may also inherit from his natural
parents and kindred the same as if no adoption has taken place.

5 39 TTC § 255.

6 *c. The preponderance of the evidence standard applies in customary adoption*
7 *proceedings*

8 Furthermore, when determining whether a person was adopted according to local custom, the
9 Court uses a preponderance of the evidence standard, as established by *In re Estate of Rofag*. “Our
10 adoption statutes do not state what standard to apply in proving customary adoption. Eight CMC §
11 1105 only requires that proof of adoption shall be to the satisfaction of the court.” *In re Estate of*
12 *Rofag*, 2 N.M.I. 18, 28 (1991). However, the Supreme Court of the Northern Mariana Islands
13 continued, “We conclude that the preponderance of the evidence standard is consistent with
14 legislative intent in establishing claims of customary adoption. This standard should be applied in
15 any proceeding in which such a claim is raised.” *Id.* at 29-30. *In re Estate of Rofag* dealt with the
16 Carolinian customary adoption practice of *mwei mwei*, but this standard has been applied to all
17 customary adoptions in the CNMI, including the Chamorro customary adoption practice of *poksai*,
18 as seen in other *poksai* cases. “Based upon the preponderance of the evidence introduced by the
19 parties and admitted by the Court at the hearing of this matter, the Court makes the following
20 findings.” *In Re the Estates of Isabel Songao Ayuyu* at 2, Civ. Act. No. 89-863, (NMI Super. Ct
21 Nov. 8, 1990). A claimant satisfies this burden by producing evidence which, as a whole, shows
22 that the fact sought to be proved is more probable than not. *In re Estate of Barcinas*, 4 N.M.I. 149,
23 154 (1994).

1 Circumstantial evidence is often the only evidence available in customary adoption proceedings,
2 and is permissible to prove a customary adoption occurred. “Direct evidence of a *mwei mwei*
3 adoption will often be unavailable.” *In re Estate of Olopai*, 2015 MP 3 ¶ 15. As a result,
4 “[c]ircumstantial evidence is sufficient to prove consent to a *mwei mwei* adoption.” *Id.* at ¶ 16. This
5 Court notes that some of the best evidence in a *poksai* case is the actual testimony of the individual
6 claiming to be *pineksai*, such as when these individuals relate their history to the court, including
7 how old they were at the time the adoption occurred and where they lived. This is some of the most
8 important evidence in a *poksai* case.

9 IV. DISCUSSION

- 10 a. *This Court finds through the preponderance of the evidence that Dolores Sablan*
11 *Mendiola-Aldan was adopted through the customary practice of poksai by*
12 *Anunciacion Mendiola Camacho Magofna.*

13 The Court first examines whether Dolores was raised as the natural and legitimate child of
14 Asako, which would make Dolores Asako’s customary adopted child. *In re Estate of Andres G.*
15 *Macaranas*, 2003 MP 11 ¶ 17. The Court examines whether Dolores was raised as the natural and
16 legitimate child of Asako based upon the totality of the circumstances. *See In re Estate of Malite*,
17 2011 MP 4 ¶ 14.⁷ In the present case, the evidence at the hearing came from credible witness
18 testimony.⁸ The testimonial evidence presented by the three witnesses supports the conclusion that
19 Asako customarily adopted Dolores under the Chamorro custom of *poksai*.

20 Following *Acebo*, the Court discusses “whether the child was taken into the home of the
21 adoptive parent(s) at a young age.” *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super
22 Ct. Sept. 8, 2021)(Decision and Order at 7) *citing In re Estate of Andres G. Macaranas*, 2003 MP

23 ⁷ *Estate of Malite* is a Carolinian customary *mwei mwei* adoption case. The same standard of totality of the
circumstances applies in a Chamorro customary *poksai* adoption case.

24 ⁸ There is not much tangible evidence in this case. However, there are credible allegations that tangible evidence, such
as photos, existed at one time and they have been lost since Asako died.

1 11, P13 no. 2. The Court finds that Dolores was transferred to Asako’s care at a young age. After
2 initially being adopted by Joaquin M. Mendiola and Dolores S. Mendiola, Dolores was adopted by
3 Asako and Frolian at the age of four. Tr. 263, ll. 9-14. *Macaranas* does not give a definitive age as
4 to what constitutes being taken into the home of adoptive parent(s) at a young age, only “Pepe and
5 his wife Maria took Bernadita, as a little girl, into their home and raised her, under ‘poksai’ [sic] as
6 though she were their natural child.” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 13 no. 2
7 citing *In re Estate of Cabrera*, 2 N.M.I. 195, 199 (1991). Similarly, the *Cabrera* decision is also
8 silent as to what age Bernadita and the other children Pepe and Maria adopted through *poksai* were
9 taken in. The trial records for this case cannot be found. This Court finds that Dolores was taken in
10 at a young age as it believes that the age of four constitutes “a young age,” especially in light of the
11 confusion as to the claimant’s age in *Ayuyu*. Even still, “young age” has not been found to
12 definitively mean “immediately after birth.”

13 The situation of Asako adopting Dolores through *poksai* fits the description of *poksai* based
14 upon the testimony that both Escolastica and Donald Mendiola gave to describe examples of when
15 *poksai* occurs. Asako was Dolores’ aunt, as Asako Dolores’ biological father were siblings. Tr. 262.
16 Asako was having a difficult time conceiving a child of her own. Tr. 304, ll. 11-19. Escolastica
17 testified one type of *poksai* occurs between “[t]wo siblings, where one sibling does not have any
18 kids and another who has a lot of kids. The former takes burden from the latter and raises the kid
19 for her own.” Asako Tr. 215, ln. 1-6. Donald Mendiola testified this often occurs when “a couple
20 may not be able to have their own child, children, so they adopt, they poksai.” Asako Tr. 553, ln.
21 13-15.

22 The Estate argues that Dolores cannot be adopted through *poksai* by Asako as Dolores was
23 initially statutorily adopted by her grandparents. Tr. 262. However, the Court finds that this
24 situation also fits, or nearly fits, the description of *poksai* as described by both Escolastica and

1 Donald Mendiola. Escolastica testified another situation when *poksai* occurs is when “[t]wo
2 couples, or grandparents of a child, take care of a young child while the young child’s parents find
3 employment and work to support their family. Eventually, when the couple raising the grandchild
4 passes, the young child’s parents take back their child.” Asako Tr. 215, ln. 15-25; Asako Tr. 216,
5 ln. 1-10. Dolores’ father was often at sea for work, and Dolores was given to her grandparents, but
6 instead of being given back to her biological parents, she was given to her aunt. Donald Mendiola
7 testified *poksai* can sometimes occur in the following manner: “Another way is when a, when the
8 parents, either one or both of them are working and they and do not, they cannot stop working just
9 because they can raise the child, then the grandparents can take the child, adopt or just raise the
10 child but not for so long because these are grandparents and they’re [sic], we can’t guarantee if you
11 going to live long until the kid becomes a mature because so they can take the child and raise the
12 child.” Asako Tr. 554, ln. 14-20

13 That a *poksai* might occur where the child is initially given to his or her grandparents and
14 then transferred back to the parents also supports the idea that *poksai* is somewhat fluid and the
15 transfer of care does not have to be while the child is still an infant, just “a young age.”

16 Further evidence established that Asako raised Dolores as though she were her natural and
17 legitimate child. Evidence supports the fact that Asako performed the duties that a natural parent
18 performs for a child including taking Dolores to school, providing her with shelter, and worrying
19 about her wellbeing. Dolores testified that she went to William S. Reyes school in Chalan Kanoa
20 for elementary school because there was no elementary school in Tanapag at that time. Asako drove
21 and dropped her to school every day and picked her up when the school was over. Tr. 264-265.
22 When Dolores lived with Asako in Tanapag, she had her own room in the house where she kept all
23 her belongings. Tr. 267, ll. 16-22. 6. Dolores’ boyfriends would go to Asako and Frolian to ask
24 their consent to marry Dolores. Tr. 270. Dolores would introduce her boyfriends to Asako because

1 Asako expected Dolores to bring the man she was going to marry for Asako's approval. Tr. 278.
2 Asako and Frolian accepted Dolores third marriage proposal from Jesus Lizama San Nicolas as she
3 was pregnant at the time. Tr. 272-273. All of these facts are indicative of a parent-child relationship
4 between Asako and Dolores.

5 The Estate argues that Dolores' room at Asako's Tanapag house is not actually indicative of
6 a parent-child relationship because Dolores went to live with Asako at age four, but she lived in a
7 different house than her. Estate Proposed Findings of Fact, ¶ 135. The Estate also argues that
8 Dolores stayed with Estefania, also her adoptive mother through *poksai*, in Chalan Kanoa. Estate
9 Proposed Findings of Fact, ¶ 148. However, Dolores not staying in the same house as Asako is not
10 necessarily probative of a non-existent parent-child relationship as living under the same roof all of
11 the time is not necessary to prove the child was adopted through *poksai*. In *Ayuyu*, the claimant was
12 deemed to be adopted through *poksai* by her biological grandmother and lived with her on Rota,
13 even though the facts indicated that beginning at the age nine, the claimant stayed with her
14 biological mother (who gave her away to be adopted) on Saipan during the school year. "Another
15 issue raised was that why did Maria [leave] Rota at 9 years old, went to school in Saipan but would
16 stay on Rota during the summer. She did this until 1950." *In re the Estate of Ayuyu*, Civ. Action No.
17 89-863 (N.M.I. Super. Ct. filed Oct. 31, 1990)(Rebuttal Argument at 2). Ultimately, the Court
18 deemed claimant Maria was raised through *poksai* and lived on Rota despite spending the majority
19 of her school year in the care of someone other than her adoptive mother on Saipan. "Claimant
20 Aguon lived with the Decedent until her marriage in 1953 at which time Aguon left Rota and
21 moved to Saipan." *In re the Estate of Ayuyu*, Civ. Action No. 89-863 (N.M.I. Super. Ct. Nov. 8,
22 1990)(Decision and Order). The Supreme Court upheld the trial court's determination Maria was
23 *pineksai* despite her spending the school year on a different island. "Maria attended school on
24 Saipan from 1945 to 1950." *In re Estate of Ayuyu*, 1996 MP 19 ¶ 6. Whatever the living

1 arrangements were at Tanapag, Dolores lived there and stayed with Asako, is an indication Asako
2 was Dolores' adoptive mother.

3 Additionally, the Court analyzes the relationship of the parties to one another and to the
4 public in general. A fact that both the Estate and Dolores agree on is that Dolores did not live with
5 her parents, Juan Sablan Mendiola and Veronica Taramao, when she was growing up. Estate's
6 Proposed Findings of Fact and Conclusions of Law at 18, ¶ 128 *citing* Tr. 261, ln. 21-23. Dolores
7 sought her familial connections elsewhere. Dolores testified that when she was living in Tanapag,
8 she had siblings: Anthony, Rudy, Joaquin, and Froilan Junior. After Dolores left the Tanapag home
9 Annette was adopted. Tr. 268, ll. 3-9. Dolores testified that she helped Asako to take care of her
10 siblings and she considered them as her brothers and sisters. The siblings listened to Dolores and
11 treated her as their oldest sister. Tr. 268-269; Tr. 576, ll. 3-25. This is indicative that Asako and her
12 family regarded Dolores as Asako's daughter. Fermina Camacho testified that Asako held Dolores
13 out to be her natural daughter and did not tell people that Dolores was adopted. "She never say that
14 she poksai, no, she just address her as her daughter always." (Tr. 578, Ln. 1-2). This is indicative
15 that the public regarded Dolores and Asako as mother and daughter.

16 The Estate proposes several reasons that that Dolores cannot have been adopted through
17 *poksai* by Asako. The Estate argues that because Dolores was statutorily adopted by someone else,
18 specifically Asako's biological parents who are also Dolores' biological grandparents, it precludes
19 her from being customarily adopted through *poksai* by Asako. Estate's Proposed Findings of Fact
20 and Conclusions of Law at 39, ¶ 85. The Estate argues that because Asako was also adopted
21 through *poksai* by Estefania, she was not *pineksai* to Asako. Estate's Proposed Findings of Fact and
22 Conclusions of Law at 42, ¶ 105. The Estate further supports its claim Dolores is not *pineksai* to
23 Asako by pointing to the fact that Asako did not list Dolores as her daughter in the Sablan family
24 history book. Estate's Proposed Findings of Fact and Conclusions of Law at 7, ¶ 37 *citing* Ex. 9.5.

1 Instead, Asako listed Dolores as the child of Asako’s biological parents. Id. at ¶¶ 35-36 *citing* Exs.
2 8.2 and 9.4. The Court recognizes that on its face value, some of the allegations the Estate has
3 made, especially when supported by tangible evidence, call into question Dolores’ claim of being
4 adopted through *poksai* by Asako.

5 First, this Court finds the claim that a statutory adoption precludes a subsequent customary
6 adoption to be without merit. The standard is that “pineksai who are raised as natural and legitimate
7 children are customary adopted children” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 17.
8 In order to answer this question, the Courts have examined “whether the child was taken into the
9 home of the adoptive parent(s) at a young age.” *In Re Estate of Acebo*, Civ. Action No. 19-0366
10 (N.M.I. Super Ct. Sept. 8, 2021)(Decision and Order at 7) *citing In re Estate of Andres G.*
11 *Macaranas*, 2003 MP 11 ¶ 13 no. 2. Dolores was statutorily adopted at the age of two months. Tr.
12 262, ln. 6-13. Subsequently, after her statutory adoption, Asako took her into her home when
13 Dolores was four years old. Tr. 263, ll. 9-14. As stated previously in this Order, this Court finds that
14 four years old is still a young age. Dolores spent the majority of her childhood raised by Asako in
15 Asako’s home.

16 This Court does not agree with the Estate’s claim that Dolores cannot have been adopted
17 through *poksai* by both Asako and Estefania. There is no statutory or common law definition of
18 *poksai* beyond “pineksai who are raised as natural and legitimate children are customary adopted
19 children.” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 17. The Court must turn to experts
20 to explain how an adoption through *poksai* may be determined. Escolastica, one of the expert
21 witnesses called to testify in this case, testified that one type of *poksai* occurs when two sisters raise
22 a child and divide the responsibility for taking care of the child. Tr. 216, ln. 11-17. Dolores’ story is
23 consistent with Escolastica’s testimony, as Asako and Estefania were sisters. Tr. 275, ln. 18-21;
24 Exhibit 9.4 Another expert witness, Rosa Palacios testified that Dolores was adopted through

1 *poksai* by Asako and the fact that Dolores was also adopted through *poksai* by Estefania did not
2 defeat or change the fact that Dolores was still a child of Asako. In the Chamorro culture, a child
3 can be *pineksai* to more than one woman, and she should be treated equally as all other children.
4 (Tr. 601, ll. 14-17).

5 Next, the documents themselves, when viewed on their own, do suggest that Asako may not
6 have regarded Dolores as her adoptive daughter. However, there are also plausible reasons that
7 Asako listed Dolores as the adoptive daughter of Asako’s mother, as at one point in time, she
8 legally was. There is also testimony that the family records are incomplete, missing, or have been
9 doctored to favor the Estate’s interests. The Court cannot weigh in on the merits of those
10 allegations. However, the Court does find it peculiar there seem to be years that go by in these
11 family records without any photographic or other documentation. There was testimony specifically
12 by Dolores that one family memento that is missing is the lock of hair Asako took from Dolores and
13 put with the family photo albums when Dolores entered the police force. Tr. 614-615. None of the
14 documents produced by the Estate or the allegations it makes against Dolores erase the memory of
15 Dolores and her understanding that growing up as a daughter of Asako, a piece of evidence the
16 Court finds very important. When weighed with a preponderance of the evidence standard, the
17 Court finds that Asako raised Dolores as her natural and legitimate child.

18 As the Court finds that Dolores was raised as the natural and legitimate child of Asako, the
19 Court next discusses whether Dolores will inherit from Asako’s Estate, as “Chamorro custom for
20 such *pineksai* to receive property from their adoptive parents is embodied in the statutory language
21 of 8 CMC § 2918(a).” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 17. Following *Acebo*,
22 the Court discusses “whether the adoptive parent(s) wanted the *pineksai* to have a share in his or her
23 land.” *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super Ct. Sept. 8, 2021)(Decision
24 and Order at 7) citing *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 13 no. 3.

1 The Estate argues that because Frolian’s Estate only mentioned his wife Asako and his
2 biological children as his heirs, it evidences that Asako did not want to give Dolores a share of her
3 Estate. Estate’s Proposed Findings of Fact and Conclusions of Law at 42, ¶ 115. This is probative of
4 Frolian’s Estate and intentions, not Asako’s. The Estate and Dolores have alleged that prior to her
5 death Asako indicated how she would distribute her assets. There were also allegations that Asako
6 wrote a formal will, which could have squashed a lot of the issues in this case, but a will was never
7 located. Tr. 282-283. There is no evidence that Asako ever performed a formal *partida*, nor did she
8 leave a *testamento*. There is no evidence that Asako ever indicated how she was going to distribute
9 her assets prior to her death.

10 A *partida* does not have to be effectuated in order for the decedent’s assets to be distributed.
11 It is not uncommon for a *partida* to not be performed prior to the decedent passing. The *Macaranas*
12 decision was important because it found that *pineksai* were entitled to inherit even when a *partida* is
13 not performed. “The specific holding of Cabrera is inapposite here, because Andres did not perform
14 a *partida* prior to his death.” *Macaranas* at ¶ 13. When the decedent dies intestate, the disposition of
15 the assets must follow the procedures as set forth in 8 CMC § 2902. *Macaranas* held that *pineksai*
16 are able to inherit as natural and legitimate heirs, even when their adoptive parent dies intestate.
17 “The Chamorro custom for such *pineksai* to receive property from their adoptive parents is
18 embodied in the statutory language of 8 CMC § 2918(a).” *Macaranas* at ¶ 17.

19 There is no case law on the inheritance rights of *pineksai* who have multiple mothers. Our
20 Supreme Court has previously ruled that customarily adopted children may inherit from both their
21 natural parents’ and subsequently adoptive parents’ estates. *In re Estate of Kaipat* is a case that
22 involves the Carolinian customary adoption practice of *mwei mwei* case and the estate of a claimant
23 also named Dolores (of no relation to the claimant in this case). Dolores’ father died intestate in
24 1944, and she was subsequently adopted through the Carolinian practice of *mwei mwei* by her aunt,

1 Rita. *In re Estate of Kaipat*, 2010 MP 17 ¶ 3. The Court held that estate of the claimant, Dolores,
2 and her heirs, should be allowed to inherit from both her natural father’s and adoptive mother’s
3 estates because their right to inherit from the natural father’s estate vested upon the natural father’s
4 death, and it was not divested by the subsequent adoption. *Id.* at ¶ 20. “Our holding that Dolores
5 may inherit from both Isaac and Rita’s estates is consistent with the consensus position that the
6 right to inherit from a natural parent will not be extinguished except by statute.” *Id.* at ¶ 23.

7 This holding is inapposite to the present case as *Kaipat* involves an adoption subsequent to
8 the natural parent’s death, and in this case Dolores was adopted through *poksai*, first by Asako and
9 then later by Estefania while Asako was still alive. However, its holding is informative of how the
10 courts are to honor a person’s inheritance right unless it has been explicitly removed.

11 We acknowledge Appellee’s argument that the practical effect of our ruling will
12 permit Dolores’ heirs to inherit twice – once from Isaac’s estate and once from Rita’s
13 estate. However, Appellee has failed to make a compelling legal argument against this
14 practice, and established common law principles do not support denying Appellee’s
15 claim. *Id.*

16 There is still no statute in the CNMI that prevents adopted children from inheriting from the
17 estates of both their natural and subsequently adoptive parents, and there is no statutory guidance to
18 clarify for the courts how they should probate estates when one claimant has been raised as *pineksai*
19 by more than one person. The standard the Courts are bound to follow is that “the Chamorro custom
20 for such *pineksai* to receive property from their adoptive parents is embodied in the statutory
21 language of 8 CMC § 2918(a).” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶17. As Dolores
22 was customarily adopted through *poksai* by both Estefania and Asako, it follows that she may
23 inherit from both estates.

24 The Estate tries to make a case out of the fact that she is listed as an heir in the Estate of
Juan Sablan Mendiola, her biological father. Tr. 349, ln. 5-14; Exhibit 23.1. Juan Sablan Mendiola
was free to list as his heirs whomever he chose in his last will and testament. The fact that he

1 included his biological daughter who was *pineksai* to Asako and Estefania is not probative of the
2 estates from which Dolores may inherit through the rules of intestacy. Neither is the fact that
3 Dolores is the Administrator of Juan Sablan Mendiola and Estefania's Estates probative. As the
4 Estate points out during its examination of Dolores, there is a difference between working as the
5 administrator or being appointed as the administrator for an estate and having a claim of
6 inheritance. Tr. 351, ln. 18-25.

7 There was also an allegation that prior to her death on the topic of which heir would get
8 what Asako stated, "You'll see when I die." Tr. 196, ln. 24. This Court finds that the preponderance
9 of the evidence shows that Asako did not perform a *partida* prior to her death, nor did she designate
10 specific devises for property prior to her death, but she did desire for her heirs to inherit form her.
11 As there is no instrument that reflects the decedent's testamentary wishes, Asako's Estate should be
12 probated following the procedures set for in 8 CMC § 2902, which would include Dolores as an
13 heir because she is *pineksai* to Asako per 8 CMC § 2918(a).

14 b. *This Court finds that through the preponderance of the evidence that Annette P.*
15 *Cruz was adopted through the customary practice of poksai by Anunciacion*
16 *Mendiola Camacho Magofna.*

17 The Court first examines whether Annette was raised as the natural and legitimate child of
18 Asako, which would make Annette Asako's customary adopted child. *In re Estate of Andres G.*
19 *Macaranas*, 2003 MP 11 ¶ 17. The Court examines whether Annette was raised as the natural and
20 legitimate child of Asako based upon the totality of the circumstances. *See In re Estate of Malite*,
21 2011 MP 4 ¶ 14. In the present case, the evidence at the hearing including credible witness
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23
24

1 testimony and multiple exhibits.⁹ The testimonial evidence presented by the witnesses supports the
2 conclusion that Asako customarily adopted Annette under the Chamorro custom of *poksai*.

3 Following *Acebo*, the Court discusses “whether the child was taken into the home of the
4 adoptive parent(s) at a young age.” *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super
5 Ct. Sept. 8, 2021)(Decision and Order at 7) *citing In re Estate of Andres G. Macaranas*, 2003 MP
6 11 ¶ 13 no. 2. The Court finds that Annette was transferred to Asako’s care at a young age. This is
7 shown by the fact that on October 30, 1972, about twenty days after Annette was born, Asako asked
8 to legally adopt Annette. Tr. 19-20; Ex. H.1. This is further shown by the fact that on November 7,
9 1972, Froilan Tudela and Asako filed a petition to adopt Annette with the consent of Annette’s
10 biological parents, and to change her name from Pamela Ulloa Palacios to Annette Mendiola
11 Camacho. Ex. H.1. Also on November 7, 1972, Annette’s natural parents filed their Consent to
12 Adoption. Ex. G.1. Finally, on November 12, 1972, about a month after she was born, the District
13 Judge of the Mariana Islands District entered a Decree of Adoption, granting the adoption of
14 Annette to Asako and her husband and changing the infant’s name to Annette Mendiola Camacho.
15 Ex. E.1-E.2. This is an even younger age than the claimant in *Ayuyu* was adopted through *poksai*,
16 which was when the claimant in said case was six months old, *In re Estate of Isabel Songao Ayuyu*,
17 1996 MP 19, P2 (1996), and this is similar to *Macaranas*, where “[the grandchildren] lived with
18 [Andres] and [Petra] almost from birth.” *In re Macaranas*, Civ. Action No. 01-0136 (N.M.I. Super.
19 Ct. Apr. 3, 2002)(Findings of Fact and Conclusions of Law at 3). Thus, this Court finds that
20 Annette was taken in at a young age by Asako.

21
22 _____
23 ⁹ Tangible evidence, should it exist, can help to assist the Court in making customary adoption findings. *In Estate of*
24 *Teigita*, CV-89-1033 (Dec. 20, 2019), the Superior Court for the Commonwealth of the Northern Mariana Islands
identified four categories of tangible evidence that can assist the Court in a customary adoption determination. Those
categories are: (1) photographs; (2) obituaries; (3) legal documents; and (4) letters. While *Teigita* was a Carolinian
customary *mwei mwei* adoption case, these categories of tangible evidence, can also assist the Court in a Chamorro
customary *poksai* adoption case.

1 Further evidence established that Asako raised Dolores as though she were her natural and
2 legitimate child. Annette was raised by Asako in her home in Tanapag. Tr. 24-25. Asako made sure
3 Annette got up and went to school every day. Tr. 30. When Annette was sick and needed to go the
4 doctor, it was Asako that would take Annette and care for her. Tr. 30. Additionally, the family ate
5 dinner together in the evenings, along with their *tita*. Tr. 30. All of these facts are indicative of a
6 parent-child relationship between Asako and Dolores.

7 Additionally, the Court analyzes the relationship of the parties to one another and to the public
8 in general. Annette did not know that Asako was not actually her actual mother as a child. Tr. 25-
9 26. Annette believed her biological parents were her “aunty and uncle” growing up. Tr. 38. While a
10 child, Annette only knew her natural parents to be her “aunty and uncle” as Asako described them
11 to her, not as her biological parents. Tr. 38. While a child, Annette did not visit her natural parents’
12 home, and instead her natural parents (whom she knew to be her aunt and uncle) would come to
13 Asako’s house while Annette was in elementary school, “because they’re family.” Tr. 38. Even
14 during these visits in elementary school, however, Annette did not spend a lot of time with her
15 natural parents, and Asako would at times have Annette go to her bedroom during these visits. Tr.
16 38. Annette’s children called Asako “Grandma” and Asako referred to Annette’s children as her
17 grandchildren. Tr. 49. In 2000, Asako wanted Annette to change her name back to the name Asako
18 had given her. Tr. 56. On September 25, 2000, upon Annette’s request, the Court changed
19 Annette’s name from Pamela back to the name Asako had given her, Annette. Tr. 56-57; Ex.K.1-
20 K.2. All of these facts are indicative that Asako and her family regarded Annette as Asako’s
21 daughter.

22 The Court also examines how the public viewed the relationship between Asako and Annette.
23 Asako and her family went to the San Roque Parish, which had a fiesta every year which was
24

1 memorialized in a program wherein families of the church would send in photos. Tr. 57-58; 84; 86.
2 Asako submitted photos for the program including a photo of Annette with Asako and the rest of
3 the siblings at Rudolfo's novena in 2004 describing "Asako M. Camacho Magofna and her
4 children." Tr. 59; Ex. M.1-M.4. Asako prepared a program for her first husband Froilan Tudela's
5 20th death anniversary on December 8, 2002, which included a tribute from the family to "a loving
6 husband and father who lives in our hearts", which read:

7 Twenty years later we gather here to pay our tribute to a loving husband, father,
8 grandfather, great-grandfather and friend. With four grown sons, a daughter and three
9 reared children together with their families and friends, Lang would have felt very
10 happy and complete with his life. Tr. 65.

11 The passage ends with "Si Yu'us Ma'ase You Will Always Be In Our Hearts and Prayers,"
12 followed by "Asako Camacho Magofna and children." Tr. 66. The death anniversary program
13 includes photos of Froilan, the children, a family photo of Froilan, Asako, Annette, Rudy, Joaquin,
14 Anthony, and Froilan Jr., and a photo of Asako and Annette. Tr. 66-67; Ex. D.1-D.13. All of these
15 facts are indicative that the public regarded Dolores and Anette as mother and daughter.

16 The Estate argues that due to the fact that Annette P. Cruz was adopted pursuant to statute, first
17 by the decedent, Anunciacion Mendiola Camacho Magofna, and then later again by Annette's
18 biological parents, this precludes her from being adopted through the Chamorro customary adoption
19 practice of *poksai*. The Court does not agree.

20 This Court cannot find any statute that explicitly prohibits a customary adoption from occurring
21 when there is a statutory adoption, nor can this Court find any case law which suggests the Courts
22 have interpreted the law to mean customary adoptions and statutory adoptions cannot exist
23 concurrently. This Court notes that none of the parties' Proposed Findings of Fact, including the
24 Proposed Findings of Fact from the Estate, provided any specific cases where a customary adoption
was ruled illegitimate or terminated because of statutory adoption. However, literature on the

1 subject of *poksai* suggests that as society has changed over time, so has the custom of *poksai*, such
2 as by confirming a *poksai* with a statutory adoption to ensure the *pineksai* are afforded legal
3 protections. Plaintiff Dolores Sablan Mendiola-Aldan’s Exhibit 3, an article from the website
4 *Guampedia* that was admitted into evidence states that “Today, some will legally adopt a child in
5 order to qualify them for certain benefits such as health insurance.” Kelly G. Marsh-Taitano,
6 *Poksai: Informal Adoption*, GUAMPEDIA (Nov. 14, 2023),
7 [https://www.guampedia.com/poksai/#:~:text=Poksai%20is%20a%
8 20CHamoru%20verb,adoption%20among%20extended%20family%20members](https://www.guampedia.com/poksai/#:~:text=Poksai%20is%20a%20CHamoru%20verb,adoption%20among%20extended%20family%20members).

9 This Court finds that the laws of the CNMI exist in order to support customary adoption
10 practices, not to prevent them from occurring. 8 CMC § 1419 is the current law that guides
11 customary adoptions, but it was not in effect at the time Annette (or Dolores) were customarily
12 adopted, which was The Trust Territory Code, specifically 39 TTC § 255. The High Court of the
13 Trust Territory of the Pacific Islands allowed the courts to enter decrees confirming a marriage
14 annulment, divorce, or adoption in accordance with recognized custom in the case of *Mutong v.*
15 *Mutong*, 2 TTR 588 (1964). This suggests that courts have recognized the need for statutory legal
16 protections for people operating under customary law, and that a court order, such as a statutory
17 adoption, could be just another way to effectuate these protections. At the very least, it suggests that
18 a statutory order does not preclude customary practices, such as *poksai*. The Court also notes that
19 current law also affords the statutory protections to marriages, annulments, and adoptions that occur
20 through customary practice under 8 CMC § 1105. The laws of the CNMI exist to protect customary
21 practices, including *poksai*.

22 The Court understands there was a subsequent statutory adoption in 1990 where Asako
23 relinquished her parental rights back to Annette’s biological parents. Ex. I.2; Ex. A.8, Tr. 35. This
24 subsequent adoption does complicate matters, as a statutory adoption does terminate prior parental

1 rights. 8 CMC § 1418. However, *poksai* simply means “the raising of a child as though the child
2 were a natural and legitimate child.” *In re Estate of Cabrera*, 2 N.M.I. 195, 198 n.1 (1991). Annette
3 being adopted back by her biological parents does not erase her entire childhood of being raised by
4 Asako from the age of about one month. Furthermore, Annette testified that she did not understand
5 the implications this adoption would have, which included changing her name to Pamela Ulloa
6 Palacios, which this Court finds plausible. Exhibit I.1-I.2, Tr. 36. Annette was 17 years old at the
7 time, and was not even physically present at the adoption proceedings, facts which are not in
8 dispute. Ex. I.6-I.7.

9 What is perhaps more compelling are the subsequent actions of both Annette and Asako. There
10 seem to be implications that because Annette ran away from home without telling Asako, she did
11 not really love her mother or did not want to have a relationship with her anymore. The Court finds
12 this is not the case as fights between parents and their children are common and indicate a parent-
13 child power dynamic. The Court has ruled that previously that estrangement can actually be
14 indicative of a parent child relationship. In *In re Estate of Olopai* the Court found “the estrangement
15 resulting from Timmo's disapproval of Manny's romantic relationship demonstrated his expectation
16 that he should continue to have fatherly authority.” 2015 MP 3 ¶ 19. Annette testified that she went
17 to Utah because she was excited as she had never left the CNMI before, but she did not tell her
18 mother she was going to Utah because she feared Asako’s reaction and that Asako would not let her
19 go. Tr. 31. Annette also testified that did not talk to Asako while she was in Utah because she was
20 afraid of how Asako would react given that Annette had left Saipan without her mother’s
21 permission. Tr. 33.

22 However, Annette returned to Saipan from Utah, and the estrangement between Annette and
23 Asako ended. Tr. 106, 129. Annette resumed living with Asako in Asako’s home until Asako
24 married her second husband, Michael Magofna. Tr. 41. Annette moved back to Utah, and Asako

1 paid for her airfare. Tr. 42. Annette and Asako maintained a relationship, with Asako paying for
2 Annette to return to Saipan with her children on two different occasions. Tr. 44. Asako also gave
3 Annette’s children their middle names. Tr. 43. Annette eventually changed her name from Pamela
4 back to Annette, which is the name Asako had given her. Tr. 56-57; Ex.K.1-K.2. Annette was
5 included in family photos submitted to the annual San Roque Parish fiesta after she returned. Tr.
6 57-58; 84; 86. Annette was included in family photos at Froilan Tudela’s 20th death anniversary on
7 December 8, 2002. Tr. 66-67; Ex. D.1-D.13. All of this evidence suggests that despite the statutory
8 adoption in 1990, Asako still continued to hold Annette as her natural and legitimate daughter.

9 The Court has indicated previously there may be different types of *poksai*. *Macaranas* at ¶ 16.
10 Two different expert witnesses testified in this case there were different types of *poksai*, but they
11 did not agree as to what the different types of *poksai* are. Experts have testified previously there are
12 two types of *poksai*. *In re the Estate of Ayuyu*, Civ. Action No. 89-863 (N.M.I. Super. Ct. filed Oct.
13 10, 1990)(Closing Argument on the Evidentiary Hearing on Aguon’s Claim at 2). As there is no
14 agreed upon standard definition of the types of *poksai*, nor is there a statutory definition or factors
15 courts may examine similar to the *Malite* factors for *mwei mwei*, this Court finds it probable that the
16 idea of *poksai* may be somewhat fluid. With that in mind, the Court does not believe that Annette’s
17 statutory adoptions preclude her from being adopted by *poksai*. There is no dispute that Asako
18 raised Annette from the age of one month to the age of 17, so this Court finds that Asako took
19 Annette in at a young age. *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super Ct. Sept.
20 8, 2021)(Decision and Order at 7) citing *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 13 no.
21 2. After reviewing all the facts in this case and based upon a preponderance of the evidence, this
22 Court rules that Asako raised Annette as her natural and legitimate child.

23 As the Court finds that Annette was raised as the natural and legitimate child of Asako, the
24 Court next discusses whether Annette will inherit from Asako’s Estate, as “Chamorro custom for

1 such pineksai to receive property from their adoptive parents is embodied in the statutory language
2 of 8 CMC § 2918(a).” *In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 17. Following *Acebo*,
3 the Court discusses “whether the adoptive parent(s) wanted the pineksai to have a share in his or her
4 land.” *In Re Estate of Acebo*, Civ. Action No. 19-0366 (N.M.I. Super Ct. Sept. 8, 2021)(Decision
5 and Order at 7) *citing In re Estate of Andres G. Macaranas*, 2003 MP 11 ¶ 13 no. 3.

6 The Estate argues that because Frolian’s Estate only mentioned his wife Asako and his
7 biological children as his heirs, it evidences that Asako did not want to give Annette a share of her
8 Estate. Estate’s Proposed Findings of Fact and Conclusions of Law at 37, ¶ 78. This is probative of
9 Frolian’s Estate and intentions, not Asako’s. The Estate and Dolores have alleged that prior to her
10 death Asako indicated how she would distribute her assets. There were also allegations that Asako
11 wrote a formal will, which could have squashed a lot of the issues in this case, but a will was never
12 located. Tr. 282-283. There is no evidence that Asako ever performed a formal *partida*, nor did she
13 leave a *testamento*. There is no evidence that Asako ever indicated how she was going to distribute
14 her assets prior to her death.

15 A *partida* does not have to be effectuated in order for the decedent’s assets to be distributed. It
16 is not uncommon for a *partida* to not be performed prior to the decedent passing. The *Macaranas*
17 decision was important because it found that *pineksai* were entitled to inherit even when a *partida* is
18 not performed. “The specific holding of Cabrera is inapposite here, because Andres did not perform
19 a *partida* prior to his death.” *Macaranas* at ¶ 13. When the decedent dies intestate, the disposition of
20 the assets must follow the procedures as set forth in 8 CMC § 2902. *Macaranas* held that *pineksai*
21 are able to inherit as natural and legitimate heirs, even when their adoptive parent dies intestate.
22 “The Chamorro custom for such pineksai to receive property from their adoptive parents is
23 embodied in the statutory language of 8 CMC § 2918(a).” *Macaranas* at ¶ 17.

