

**Juan T. LIZAMA, et al.**  
vs.  
**Jose S. RIOS, individually and as**  
**Mayor of Saipan**

**Jose S. Rios**  
vs.  
**Marianas Public Land**  
**Corporation, et al.; Marianas**  
**Public Land Trust**

**Civil Action No. 85-0011**  
**District Court NMI**

**Decided March 3, 1986**

**1. Attorneys - Disqualification**

Where, in action involving the government, defendant is represented by former deputy attorney general, and where during his government service attorney's participation in matters related to pending litigation were peripheral to issues at bar, there is no showing of personal and substantial involvement and motion to disqualify attorney would be denied.

MAR 03 1986

For The Northern Mariana Islands

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

By [Signature]  
(Deputy Clerk)

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3 JUAN T. LIZAMA, et al., )  
4 Plaintiffs, )  
5 vs. )  
6 JOSE S. RIOS, individually )  
7 and as Mayor of Saipan, )  
8 Defendant, )  
9 JOSE S. RIOS, )  
10 Third-Party Plaintiff, )  
11 vs. )  
12 MARIANAS PUBLIC LAND CORPORA- )  
13 TION, et al., )  
14 Third-Party Defendants, )  
15 MARIANAS PUBLIC LAND TRUST, )  
16 Applicant for Intervention. )  
17

CIVIL ACTION NO. 85-0011

DECISION AND ORDER

18 Marianas Public Land Corporation (MPLC), third-party  
19 defendant, brings this motion to disqualify Attorney Robert J.  
20 O'Connor from representing Jose S. Rios, third-party plaintiff,  
21 because of a conflict of interest under § 1.11 of the Model Rules  
22 of Professional Conduct. For the following reasons this motion  
23 will be denied.

24 Mr. O'Connor served as an Assistant Attorney General  
25 for the Commonwealth of the Northern Mariana Islands for a period  
26 of 13 months, from December, 1983 through January, 1985. In his

1 capacity as an assistant attorney general, he was involved in two  
2 matters which have been brought to the Court's attention as  
3 representing a possible conflict of interest. The first is  
4 Borja, et al. v. MPLC, Civ.No. 84-312, which involved a  
5 landowner, Borja, seeking a temporary restraining order to  
6 prevent MPLC from impairing a land exchange agreement. According  
7 to MPLC, Mr. O'Connor assisted in the preparation and drafting of  
8 the reply brief in that case. MPLC's response in Borja was its  
9 assurance to the court that the land exchange would be  
10 consummated as agreed, which was the eventual result. The second  
11 matter brought to the Court's attention was Mr. O'Connor's  
12 participation in a motion for a preliminary injunction in  
13 Marianas Public Land Trust v. The Government of the CNMI and  
14 Marianas Public Land Corporation, Civ.No. 84-379. In this  
15 proceeding, Mr. O'Connor filed a brief and appeared on behalf of  
16 the government arguing that the injunction should not issue.

17 Rule 1.11 of the Model Rules of Professional Conduct  
18 prohibits a lawyer who leaves government service from  
19 representing a private client "in connection with a matter in  
20 which the lawyer participated personally and substantially as a  
21 public officer or employee..." From the comments following Rule  
22 1.11 it can be gleaned that the purpose of this rule is to  
23 prevent government attorneys from using confidential information,  
24 acquired while serving as counsel for the government, to the  
25 benefit of a private client or to the detriment of the  
26 government.

1 [1] Though it is evident that while serving in the Attorney  
2 General's Office, Mr. O'Connor had some involvement in the Borja  
3 and the MPLT cases, the issues raised therein were peripheral to  
4 the issues raised in the case at bar which centers on the  
5 propriety of the land exchange policies and practices of MPLC.  
6 Rule 1.11 requires a showing of personal and substantial  
7 involvement in a matter while serving as a government attorney  
8 which is subsequently put into use to the benefit of a private  
9 client or to the detriment of the government. Movant has failed  
10 to show such personal and substantial involvement. For these  
11 reasons the motion to disqualify counsel will be denied.

12 IT IS SO ORDERED.

13 DATED this 3<sup>d</sup> day of March, 1986.  
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19 JUDGE ALFRED LAURETA  
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