


FILED
CNMI
SUPREME COURT
DATE: 6-2-04 12:15
BY: 
CLERK OF COURT

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

**IN RE THE
COMMONWEALTH RULES OF CIVIL PROCEDURE**

JUDICIAL ADMINISTRATIVE ORDER NO. 2004-100

¶1 On March 23, 2004, the attached Amendments to the *Commonwealth Rules of Civil Procedure* were submitted to the Fourteenth Northern Mariana Islands Legislature for approval. Sixty (60) days have elapsed since submission and neither house of the Legislature has disapproved of the Amendments. The Amendments pertain to:

- (1) Rule 4(e)(2);
- (2) Rule 4(m);
- (3) Rule 5(b);
- (4) Rule 6;
- (5) Rule 30(h)(1);
- (6) Rule 38;
- (7) Rule 40(b);
- (8) Rule 65.

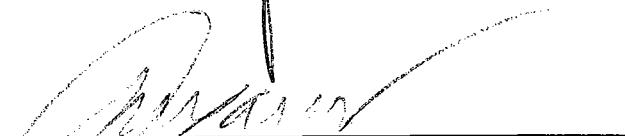
¶2 IT IS HEREBY ORDERED that the Amendments are permanent and made a part of the *Commonwealth Rules of Civil Procedure* pursuant to Article IV, § 9 of the Constitution of the

Northern Mariana Islands. The Amendments are effective as of May 24, 2004.

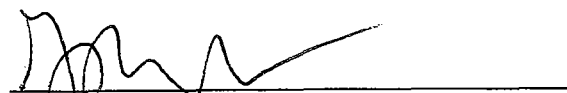
Dated this 2nd day of June, 2004.



MIGUEL S. DEMAPAN, Chief Justice



ALEXANDRO C. CASTRO, Associate Justice



JOHN A. MANGLONA, Associate Justice

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

AMENDMENTS TO THE COMMONWEALTH RULES OF CIVIL PROCEDURE

(Effective May 24, 2004)

Com. R. Civ. P. 4(e)(2):

- (e) SERVICE UPON INDIVIDUALS WITHIN A JURISDICTION OF THE UNITED STATES. Unless otherwise provided by Commonwealth law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in any jurisdiction of the United States (including the Commonwealth):
- (1) in any manner prescribed or authorized by any law of the Commonwealth; or
 - (2) by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode or of business with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

Com. R. Civ. P. 4(m):

- (m) TIME LIMIT FOR SERVICE. If service of the summons and complaint is not made upon a defendant within 240 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice, or may direct that service be effected within a specific time, provided, however, that the failure to make service within 240 days after the filing of the complaint shall not be grounds for dismissal of the complaint as to a defendant once that defendant has been served; and provided further, that if the plaintiff shows good cause for the failure, the Court shall extend the time for service for an appropriate period, and an extension shall be freely given when justice so requires. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

Com. R. Civ. P. 5(b):

- (b) SAME; HOW MADE.
- (1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party at the attorney's or party's last known address or, if no address is known, by leaving it with the clerk of court; provided, however, that service by mail shall not be permitted with respect to any document relating to a motion for which a hearing date has been fixed, or relating to a matter which has been set for trial, within 10 days of such hearing or trial date. Delivery of a copy within this rule means; handing it to the attorney or to the party; or leaving it at the attorney's or party's office with a clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.
- (2) Notwithstanding the provisions of paragraph (1) of this subdivision (b), service of an order which requires a person to appear before the court for any proceedings following the entry of a judgment may be served upon such persons in the manner provided for the service of a summons and complaint as set forth in Rule 4 (e).

Com. R. Civ. P. 6:

- (d) FOR MOTIONS AND AFFIDAVITS.
 - (1) A written motion made prior to the entry of a judgment, other than a motion which may be heard ex parte, and notice of hearing thereof, shall be filed and served not later than 30 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. Any opposition to the motion shall be filed and served not later than nine days after service of the motion. Any reply to the opposition shall be filed and served not later than six days after service of the opposition. When a motion, opposition, or reply is supported by affidavit, the affidavit shall be served with such motion, opposition, or reply. The word "days" means regular working days, and excludes weekends and CNMI government holidays."

Com. R. Civ. P. 30(h)(1):

- (h) VENUE OF DEPOSITIONS.
 - (1) The deposition of a party shall be taken at a location within the Commonwealth, if such party resided in the Commonwealth or had its principal place of business there at the time of the commencement of the action. The deposition of a party may be taken elsewhere provided that the parties stipulate to such arrangement. All persons shall bear their own costs in attending the depositions. As used in this Paragraph (h)(1), the word “party” includes individuals, partnerships, associations or corporations. In the case of a party required to make a designation under Rule 30(b)(6), the word “party” shall also include individuals designated to testify on behalf of a party pursuant to that role.

Com. R. Civ. P. 38:

- (b) DEMAND. Any party may demand a trial by jury of any issue triable of right by a jury by (1) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 60 days after the last pleading has been filed, and (2) filing the demand as required by Rule 5(d), and (3) paying the jury trial fee established by the court. Such demand may be indorsed upon a pleading of the party.
- (d) WAIVER. A party may withdraw his demand for jury but no later than thirty (30) days prior to trial. The party who did not demand a jury trial has seven (7) after the withdrawal by the other party to file a request for a jury trial.

Com. R. Civ. P. 40(b):

- (b) MEMORANDUM THAT CASE IS AT ISSUE.
 - (1) When a case is at issue, a party may serve and file an at-issue memorandum stating:
 - (A) the title and number of the case;
 - (B) the nature of the case;
 - (C) that all essential parties have been served with process or appeared and that the case is at issue as to those parties;
 - (D) whether the case is entitled to legal preference and, if so, a citation to the section of the code or statute granting the preference;
 - (E) whether a jury is demanded;
 - (F) the time estimated for the trial;
 - (G) the time is estimated that discovery will be complete;

- (H) whether a pre-trial conference is requested; and
- (I) the names, addresses and telephone numbers of the attorney for the parties or of parties appearing without counsel.

For the purposes of this rule, a case may be considered at issue notwithstanding any counterclaim, cross-claim, or third party complaint that is not at issue if the same has been on file for six months or more. This rule shall not affect the authority of the court to order a severance of a counterclaim, cross-claim, or third-party complaint.

- (3) This memorandum shall be filed and served in accordance with the requirements of Rule 7 regarding notice and filing of motions.

Com. R. Civ. P. 65:

- (c) SECURITY. No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the Commonwealth or of any officer or agency thereof.