

**LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM**

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MISCELLANEOUS RULES**

Effective October 2, 2007

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**SMALL CLAIMS**

**MR 5.1. Small Claim Rules and Procedures.**

These rules and procedures shall be known and may be cited as “The Small Claims Rules and Procedures.”

**NOTE:** Formerly Rule 92 of the Guam Rules of Civil Procedure. Adopted and made part of the Miscellaneous Rules of the Local Rules of the Superior Court of Guam by Supreme Court Promulgation Order Nos. 06-006-02 and 10. Except where otherwise indicated, these rules were approved and adopted by the Judicial Council on May 19, 1999 and effective June 1, 1999.

**MR 5.1.1. Authority to Waive Compliance.**

The Small Claims judge or referee has the authority to waive compliance with the Small Claims Rules and Procedures in order to effectuate substantial justice between the parties.

**MR 5.1.2. Small Claims Division.**

A Small Claims Division is created within the Superior Court of Guam pursuant 48 U.S.C. § 1424(a)(2) and Guam Public Law 20-28 (June 13, 1989).

**MR 5.1.3. Definitions.**

Unless the context indicates otherwise:

(a) “Plaintiff” means the party who has filed a Small Claims action; the term includes a defendant who has filed a claim against a plaintiff.

(b) “Defendant” means the party against whom the plaintiff has filed a Small Claims action; the term includes a plaintiff against whom a defendant has filed a claim.

(c) “Judgment Creditor” means the party, whether plaintiff or defendant, in whose favor a money judgment has been rendered.

(d) “Judgment Debtor” means the party, whether plaintiff or defendant, against whom a money judgment has been rendered.

(e) “Person” means an individual, corporation, partnership, limited liability company, firm, association, or other entity.

(f) “Individual” means a natural person.

(g) “Party” means a plaintiff or defendant.

(h) “Motion” means a party’s written or oral request to the court for an order or other action; the term includes an informal written request to the court, such as a letter.

(i) “Declaration” means a written statement signed by an individual which includes the date and place of signing, and a statement under penalty of perjury that its contents are true and correct.

(j) “Good cause” means circumstances sufficient to justify the requested order or other action, as determined by the judge or referee.

(k) “Mail” means first-class mail with postage fully prepaid, unless stated otherwise.

**MR 5.1.4. Jurisdiction.**

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Any person having a claim of ten thousand (\$10,000.00) dollars or less may apply for relief through the Small Claims Division. Counterclaims or cross-claims may also be filed for up to ten thousand (\$10,000.00) dollars. If a bona-fide counterclaim or cross-claim is in excess of ten thousand (\$10,000.00) dollars, the matter shall be handled as a regular civil or other case. Any person having a claim against him or her for more than five thousand (\$5,000.00) dollars may make a timely application to the court for transfer of the matter out of the Small Claims Division to be handled as a regular civil or other case within the Superior Court of Guam, which motion, if timely made, shall be granted as a matter of right.

**MR 5.1.5. No Right to a Jury Trial.**

Parties who file their case in the Small Claims Division or who appeal their case are not entitled to a jury trial.

**MR 5.1.6. Removal.**

Any person against whom a claim is filed in the Small Claims Division may apply to the Court for transfer of the matter out of the Small Claims Division to the Superior Court of Guam to be handled as a regular civil or other case. The court may grant such a motion only upon a showing of significant prejudice for the applicant if the matter continues in the Small Claims Division, or a clear showing by the applicant that the Small Claims Division is an inappropriate forum. The court may consider the costs of pursuing a regular case and availability of attorneys who might handle the matter as some of the deciding factors. Such motion for discretionary transfer shall be disfavored, and shall be granted only in exceptional cases.

**MR 5.1.7. Court Sessions; Schedules.**

Sessions of the Small Claims Court may be scheduled at any time and on any day, including Saturdays, but excluding other Government of Guam holidays. They may also be scheduled at any public building within Guam, including places outside the courthouse.

**MR 5.1.8. Filing Fees.**

The filing fee for filing a complaint or counterclaim or cross-claim in Small Claims cases shall be one (1%) percent of the amount claimed for the first one thousand (\$1,000.00) dollars and two (2%) percent for all amounts thereafter, provided, that the total filing fee does not exceed the cost of filing a civil case in the Superior Court of Guam.

If the case is removed from the Small Claims Division to the Superior Court, the party requesting removal shall pay the filing fee for a civil case filed at Superior Court.

**MR 5.1.9. Attorneys.**

(a) Pro Se. Parties filing or defending a claim in the Small Claims Division need not hire an attorney and are encouraged to appear on their own behalf. However, if one party is represented by an attorney then the other party shall be given an opportunity to obtain an attorney. The court shall have the discretion to set time limitations for a party to hire an attorney. The parties shall have the right to offer evidence in their behalf by witnesses. The court may also informally make any investigation of the controversy between the parties. The court may give judgment and make such orders as to time of payment or otherwise as may, by him, be deemed to be right and just and, in an action against several defendants, may, in his discretion, give judgment against one or more of them, leaving the action to proceed against the others, whenever a separate judgment is proper.

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(b) Attorney's Fees. No attorney's fee may be awarded in Small Claims cases unless expressly authorized by statute or in contract cases as stated in the contract, and only at the discretion of the court.

(c) Representation by Persons who are not Attorney's. Representation by persons who are not attorney's will be subject to the following provisions:

(1) A bona fide full time employee, officer or director of a corporation may represent such corporation in Small Claims court.

(2) Persons who are not attorneys and are not subject to subsection (1) above shall not represent or advise any other person in Small Claims court.

(3) No claim shall be filed or presented by the assignee of such claim, unless the assignee is an attorney admitted to practice law in Guam and the assignor is not a resident of Guam.

**MR 5.1.10. Referee.**

(a) Appointments. Small Claims cases may be heard by any Judge of the Superior Court of Guam, a magistrate appointed under 7 GCA § 4401 or the Chief Justice may appoint one or more Small Claims Referees from among members of the Guam Bar Association, to hear Small Claims cases pursuant to court rules, who shall have the power of a Superior Court Judge in respect to such Small Claims matters. Such appointments shall be for six months or less. Incumbent Referees may be reappointed by the Chief Justice for additional terms of six months or less. Referees may be disqualified from hearing a matter in the same manner as a Judge of the Superior Court may be disqualified.

As used in this Rule, Referees may be referred to as "Judge" or "Judicial Officer".

(b) Civil Liability of Small Claims Referees. No referee shall be liable in a civil action for damages by reason of any judicial action or judgment rendered by him or her.

(c) Contempt Powers of Small Claims Referees. Pursuant to 7 GCA, § 7119, Small Claims Referees are judicial officers whose powers include, but are not limited to, the powers as stated in 7 GCA, § 7111, and powers of contempt as stated in 7 GCA, § 7112.

(d) Injunctions: What is, and Who May Grant it. An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, by a judge, or by a Small Claims Referee thereof, and when granted by a judge or Small Claims Referee it may be enforced as an order of the court. The provisions in Title 7 relating to injunctions and the procedures in CVR 65 of the Guam Rules of Civil Procedure apply to the Small Claims Division.

**MR 5.1.11. Law Clerks Authorized.**

The Small Claims Division may use law clerks to assist the court with legal research of Small Claims cases.

**MR 5.1.12. Ex Parte Applications Before Small Claims Referee.**

All applications for ex parte orders may be heard in open court at a time to be prescribed by the judge or referee. Such applications shall be accompanied by a declaration containing the following:

(a) Name of the opposing party and their counsel, if any;

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(b) That good faith effort has been made to advise the opposing party or their counsel, of the date, time, place and substance of the ex parte application, or there as on supporting the claim that notice should not be required;

(c) Who opposes the application;

(d) Which party or counsel expresses an intention to be present at the time the application will be presented to the court.

This rule does not apply to an application for an alternative writ of mandate, prohibition or review, or a subpoena.

**MR 5.1.13. Ex Parte Communications.**

(a) No one shall directly or indirectly communicate with a Judge, Referee or Judicial Officer, the Judge's chamber personnel (including law clerks), the Clerk of Court, or the Clerk's Deputies and Assistants about any mater pending with the court except:

(1) In open court; or

(2) With the consent of all other parties or their counsel in such matters; or

(3) In the presence of all other parties or their counsel in such matters; or

(4) By means of motions, or other papers provided for or allowed by rule or law.

(b) Nothing in this Rule shall prevent the Clerk of Court from entertaining questions or complaints.

(c) The practice of writing a letter to a judge or judicial officer (even when the opposing party or their counsel receives copies of such letter) is expressly prohibited.

**MR 5.1.14. Court Records.**

The Clerk shall establish and maintain a Small Claims Division docket and enter herein:

(a) The title of every action;

(b) The sum of money claimed;

(c) The date of issuance of the summons;

(d) The judgment of the Court and when required;

(e) The date of receipt of a motion for a new trial, if any be filed, and the payment of the fee.

**MR 5.1.15. Docketing Statement.**

No complaint or declaration is acceptable for filling unless accompanied by a properly executed docketing statement. The Clerk of Court shall prescribe the form of the docketing statement and shall make such forms available.

**MR 5.1.16. Commencement of Action; Forms; Necessary Information.**

(a) A plaintiff may commence a Small Claims action by filing a complaint or declaration under oath with the Small Claims court. The plaintiff must submit enough copies of the compliant or declaration for the following: the court, the plaintiff, and each named defendant.

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(b) The complaint or declaration shall be a simple nontechnical form approved by the Judicial Council. The complaint or declaration shall set forth

(1) the name and address of the defendant, if known;

(2) the amount and basis of the claim;

(3) that the plaintiff, where possible has demanded payment and, in applicable cases, possession of the property;

(4) that the defendant failed or refused to pay, and, where applicable, has refused to surrender the property; and

(5) that the plaintiff understands that the judgment on his or her claim will be conclusive and without a right of appeal.

(c) The form and accompanying instructions shall include information that the plaintiff

(1) need not be represented by an attorney,

(2) has no right of appeal on his or her claim, and

(3) may ask the court to waive fees for filing and serving the claim on the grounds that the plaintiff is unable to pay them, using the forms approved by the Judicial Council for that purpose.

**MR 5.1.17. Summons; Service.**

The plaintiff shall also submit a summons with the complaint or declaration for each defendant named in the complaint or declaration. The Clerk shall sign the summons and immediately thereafter shall cause the summons and a copy of the complaint or declaration to be served by the Marshal upon each named defendant. The Clerk shall then attach to the original complaint or declaration for the Marshal's return of service.

**MR 5.1.18. Counterclaim.**

The defendant in any such action may file a verified answer stating any new matter which shall constitute a counterclaim; a copy of such answer shall be delivered to the plaintiff in person not later than forty-eight (48) hours prior the hour set for the appearance of the defendant in such action. The applicable provisions of the Guam Rules of Civil Procedure relating to counterclaims is hereby made applicable to the Small Claims Division of the Superior Court except as herein provided in this Rule.

**MR 5.1.19. Time for Appearance.**

Order for Plaintiff to Appear and Approve Claim: Application for New Order for Appearance of Defendant. The date for the appearance of the defendant as provided in the summons endorsed on the affidavit shall not be more than thirty (30) days nor less than twenty (20) days from the date of said summons.

When the Clerk has fixed the date and time for the appearance of the defendant, he shall inform the plaintiff of said date and time, order the plaintiff to appear and to have with him his books, papers and witnesses necessary to prove his claim. If the summons is not served upon the defendant at least five (5) days prior to the appearance date, the court must, upon request of an appearing defendant, continue the date of the hearing for not less than ten (10) days, and in such case, the Clerk shall inform the plaintiff of the new date set for the hearing.

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If the summons is not served upon the defendant prior to the appearance date, the plaintiff may apply to the judge, referee or clerk for a new summons setting a new date for the appearance of the defendant which shall not be more than thirty (30) days nor less than twenty (20) days from the date of the new summons.

**MR 5.1.20. Mandatory Mediation.**

Upon the timely request of any party to a Small Claims action or upon the court's own initiative, the court may order and structure mandatory mediation between the parties.

**MR 5.1.21. Motion Practice.**

(a) **Calendaring and Service.** A motion shall be served not later than five (5) days before the time set for hearing. The court may allow the non-moving party five (5) or more days to review the motion and file a response to the motion. If the non-moving party waives any response time allowed by the court, the court may hear the matter immediately. If the non-moving party does not waive the response time allowed by the court, then the court shall set the next hearing date not less than five (5) days from that hearing date.

(b) **Reply and Supplemental Memorandum.** Unless the court otherwise orders, no reply or supplemental memoranda shall be filed,

(c) **Further Proceedings on Motion under Advisement.** No motion addressing the a lack of a decision may be filed with the court prior to the expiration of fourteen (14) calendar days from the last hearing on a motion.

(d) **Proposed Orders.**

(1) A moving party and each party opposing a motion may prepare, or may be read to prepare by the court, a proposed order for submission to the court. Prior to the commencement of the hearing, the parties should exchange proposed orders and be prepared to discuss the appropriateness of those orders should the court rule from the bench.

(2) In lieu of the proposed order described above, a party may submit a statement containing language which the court could adopt in fashioning its own order.

(3) For the purposes of this rule, a warrant of arrest is an order.

(e) **Orders.** After a hearing the court may require the prevailing party to prepare an order which is consistent with the ruling of the court in that matter. The prevailing party shall expeditiously submit the order to the opposing party for his review and signature who shall then expeditiously return the order to the prevailing party. The order shall then be expeditiously submitted to the court for its final approval, signature and filing. In the event that the parties are unable to agree upon the wording of the order, then a hearing shall be requested by the party required to prepare the order.

**MR 5.1.22. Continuance.**

Hearings may be continued upon the filing of a written stipulation signed by the parties and their respective attorneys, if any. If after exercising due diligence a party's signature cannot be obtained by his counsel, the attorney shall submit with the stipulation an affidavit stating the reasons why the signature could not be obtained. The court after reviewing the affidavit may then accept the stipulation for further consideration. Stipulations shall include a proposed date for the continued hearing and are subject to the approval of the court. Stipulations for continuances shall not be treated as ex parte applications.

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**MR 5.1.23. Discovery.**

Discovery is permitted in Small Claims actions upon prior approval by the court which may include reasonable interrogatories, request for production of documents, request for admissions, and depositions.

**MR 5.1.24. Rules of Evidence.**

For purposes of Small Claims cases, the court may relax the Guam Rules of Evidence, including the rules relating to proof of damages, in order to effectuate the purpose of the Small Claims Court.

**MR 5.1.25. Utilities Disputes.**

The Small Claims Court shall have the ability to issue declaratory rulings or other forms of relief as is just in disputes over utility billings. The court may provide for continued utility services pending its final decision and sanction parties pursuant to its contempt powers for bad faith disputes over utility billings.

**MR 5.1.26. Filing.**

(a) Untimely Filing. Absent good cause shown, papers not timely filed shall be disregarded by the court.

(b) Photocopied Facsimiles Accepted. Legible photocopies of electronically transmitted papers are acceptable for filing. A cover sheet may be used when necessary to comply with GRCP, Rules 10 and 11.

**MR 5.1.27. Payment of Judgment.**

If the judgment be against the defendant, or against the plaintiff upon the defendant's counterclaim, such judgment shall be paid forthwith or at the time and upon such terms and conditions as the judge may prescribe.

**MR 5.1.28. Proof of Service after Judgment.**

The absence of proof of service at the time of any hearing at which the party seeks post-judgment relief with the attendance of a person shall be deemed non-service.

**MR 5.1.29. Motion for a New Trial.**

The judgment of the court shall be conclusive upon the plaintiff and upon the defendant upon the counterclaim, but if the defendant as to the claim or the plaintiff as to the counterclaim is dissatisfied, he may, within ten (10) days of the entry of the judgment against him, make a motion for a new trial. Upon the filing of such motion for a new trial, the moving party shall pay the same fees as are charged for the filing of an original action in the Superior Court.

**MR 5.1.30. Statement on Motion for a New Trial.**

The motion for a new trial shall be filed by completing Form 3 following, and filing the same with the Clerk. The Clerk shall thereupon enter the case in the regular docket of the Superior Court.

**MR 5.1.31. Trial De Novo.**

Upon the payment of the filing fee and the completion and filing of the form set forth above, the right to a new trial is absolute and a trial de novo shall be granted in the Superior Court under

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the rules of the Superior Court excepting that no further pleadings shall be required of either party.

**MR 5.1.32. Abstract of Judgment.**

If no motion for a new trial is filed and the prevailing party is not paid the amount of the judgment according to the terms and conditions thereof, the Clerk shall, upon application by the prevailing party, certify such judgment in the form set forth in Form 4 following.

**MR 5.1.33. Schedule of Fees.**

**NOTE:** Adopted October 24, 2003, effective, December 01, 2003, by Promulgation Order No. PRM03-008, Supreme Court of Guam. Repealed December 22, 2003, by Promulgation Order No. PRM03-012. Reinstated April 30, 2004, effective, July 1, 2004, by Judicial Council Resolution No. JC04-010. [Pursuant to P.L. 27-031, the Supreme Court shall now defer matters pertaining to court fees to the Judicial Council]

(a) Small Claims Schedule of Fees (Based on Claim Amount)

(1) Initial Claim Amount

\$ 500.00	\$20.00
\$ 501.00 - \$ 2,000.00	\$30.00
\$2,001.00 - \$ 3,500.00	\$40.00
\$3,501.00 - \$ 5,000.00	\$50.00
\$5,001.00 - \$ 6,500.00	\$60.00
\$6,501.00 - \$ 8,000.00	\$70.00
\$8,001.00 - \$ 9,500.00	\$80.00
\$9,501.00 - \$10,000.00	\$90.00

(b) Small Claims Schedule of Fees.

(1) Summons	\$ 4.00
(2) Judgment Debtor Examination	\$10.00
(3) Order to Show Cause	\$10.00
(4) Writs	\$15.00
(5) Confession of Judgment	\$15.00
(6) Abstract of Judgment	\$ 5.00
(7) Motion / Joinder for Summary Judgment	\$20.00
(8) Counterclaim (Same as Initial Filing Claim)	
(9) Any Motion Requiring a Hearing, Stipulation or Litigant Requesting to Continue Hearing	\$10.00

(c) Amended Declaration:

- (1) If amended claim amount does not exceed the initial claim amount, no fee is required.

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- (2) If amended claim amount exceeds the initial claim amount, filing fee will be based on the difference of the claim.
- (3) If amendment is to add a defendant(s), fee is assessed as in summons.
- (4) Any other amendments, no fee is required.

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**MR 5.1.34. Cost.**

The prevailing party in any action under this rule is entitled to costs of the action and also the costs of executing upon a judgment rendered therein.

**SMALL CLAIMS COURT FORMS CAN BE FOUND AT TWO LOCATIONS:**

- A. Judiciary website - <http://www.guamcourts.org/Small%20Claims/forms.html>; or
- B. Guam Self Represented Litigants website - <http://www.guamselfhelp.org/form.asp>.