

FILED

2010 JUL 19 AM 2:17

SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

<p>7 RE:</p> <p>8 AMENDMENT OF RULE 69</p> <p>9 of the GUAM RULES OF CIVIL</p> <p>10 PROCEDURE.</p> <p>11 _____</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Supreme Court Case No. PRM06-006</p> <p>PROMULGATION ORDER NO.</p> <p>PRM06-006-11</p>
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13 The Supreme Court has been presented with a suggestion to modify current Rule 69 to

14 provide that a judgment debtor receive notification of a levy by a judgment creditor so that when

15 there is exempt property, the judgment debtor can raise the exemption before execution. Under

16 the authority of 48 USC §1424-1(a)(3) and (4), and 7 GCA § 3107, an Amended Rule 69 was

17 drafted, proposed and circulated to members of the Bar on June 27, 2010. Notice of a hearing on

18 the Proposed Rule was circulated via the Guam Bar Association website on that day. Comment

19 was solicited from all members of the bench and bar. Comments were invited to be presented at

20 the regularly scheduled Judicial Council meeting of July 15, 2010, at which comments were

21 received.

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24 A hearing before the panel of Chief Justice Robert J. Torres, Associate Justice, F. Philip

25 Carbullido, and Associate Justice Katherine A. Maraman, was held at 9:30 a.m. on Friday, July

26 16, 2010, in the Monessa G. Lujan Appellate Courtroom, to act on amending Guam Rule of Civil

27 Procedure Rule 69 to read as follows:

RECEIVED
GUAM BAR ASSOCIATION
 Office of the Executive Director
 Guam Judicial Center, Second Floor
 120 W. O'Brien Drive
 Hagatna, Guam 96910-5174
 Date: 7/19/10 Time: 2:40
 By: [Signature]

1 **Rule 69. Execution and Garnishment**

2 (a) **In General.** Process to enforce a judgment for the payment of money may be by a writ of
3 execution, or in accordance with the Guam Code Annotated, provided, that the issuance of a writ
4 of execution is not required.

5 (b) In any case where more than one writ of attachment or execution on a judgment has been
6 issued by any party, it shall be the duty of the clerk, before taxing costs, to present the file to one
7 of the judges who shall inquire into the circumstances, and may disallow all costs which have
8 been needlessly incurred in the attempt to collect the judgment. In no case shall the defendant be
9 charged with the costs of an attachment or execution, which has been quashed.

10 (c) Whenever a garnishee has in the answer made claim that the defendant's earnings are
11 exempt, or whenever a defendant has made such a claim to the clerk, either orally or in writing,
12 the clerk shall forthwith set the case down for a hearing not less than five days thereafter on said
13 claim of exemption, and shall immediately notify the plaintiff or the plaintiff's attorney if the
14 plaintiff is represented by legal counsel by ordinary mail of the day and hour set for such
15 hearing, and that the plaintiff must appear in order to oppose such claim or exemption.

16 (d) After the filing of the garnishee's answer, the garnishee may give notice thereof to the party
17 at whose instance the garnishment was issued, and if such party shall not join issue thereon
18 within five days after such notice, the garnishee shall be entitled as of course to judgment in
19 accordance with the answer, unless the time shall be extended by the court.


20 (e) No motion pertaining to the oral examination of any garnishee shall be filed and/or served
21 upon any garnishee until leave of court is first had and obtained. No garnishee shall be required
22 to appear for oral examination except upon express order of a judge, and after the judge has
23 examined all the papers in the case. No subpoena requiring a garnishee to produce papers,
24 records or documents shall be issued except upon order of a judge.

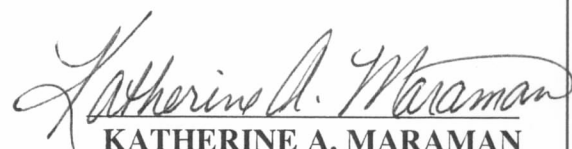
25 (f) **Notification of Rights.** If a plaintiff enforces a judgment by means of a writ of execution or
26 writ of attachment and seeks to execute on, attach or garnish wages, money or any other property
27 that is in the hands of a third party then the plaintiff, upon applying for the writ, shall also file
28 with the court notice of any exemptions that may be available to the judgment debtor under
either Guam or federal law and shall mail this notice to the judgment debtor(s) and third parties
affected by the writ by ordinary mail within ten days after the writ of execution is issued by the
court. This notice shall also state that the third party or judgment debtor may challenge the
action that is being taken by the plaintiff or claim an exemption by exercising rights that are
provided by this rule.

(g) **Against Certain Public Officers.** When a judgment has been entered against a collector or
other officer of revenue, and the judgment is, under the laws of Guam, one against the
government of Guam or any of its agencies or instrumentalities, execution shall not issue against
the officer or the officer's property but the final judgment shall be satisfied as provided in such
laws.

1 Pursuant to the authority to “make and promulgate rules governing the administration of
2 the judiciary and the practice and procedure in the courts of the judicial branch of Guam,” 48
3 U.S.C. § 1424-1(a)(6), the Supreme Court hereby enacts the above-amended Rule 69 of the
4 Guam Rules of Civil Procedure, to be effective as of the date of entry of this Order by the Clerk
5 of the Supreme Court.
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7 **SO ORDERED**, this 19th day of July, 2010.

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11 **F. PHILIP CARBULLIDO**
Associate Justice


12 **KATHERINE A. MARAMAN**
Associate Justice

13 
14 **ROBERT J. TORRES**
Chief Justice

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16
17 I do hereby certify that the foregoing is a
18 full true and correct copy of the original on
file in the office of the clerk of the
Supreme Court of Guam

19 JUL 19 2010

20 By: LISA C. IBANEZ
21 Deputy Clerk, Supreme Court of Guam