

IN THE SUPREME COURT OF GUAM

RE: )  
)  
) Supreme Court of Guam  
) Administrative Order No. \_\_\_\_\_  
RELATIVE TO ADOPTION OF )  
PROPOSED RULE FOR USE )  
OF ELECTRONIC DEVICES IN )  
THE COUTHOUSE )

**I. Policy Governing Use of Electronic Devices; Authority.**

A subcommittee was appointed by the Judicial Council to investigate all issues arising with respect to the use of electronic devices (including, but not limited to, cellular phones, Blackberrys, personal digital assistants (PDA) and laptop computers) inside the Judicial Center Building, Northern Court Satellite and other property administered by the Judiciary of Guam, and primarily, the use of cellular phones in the courtrooms while in session. While recognizing the importance of protecting the integrity of judicial proceedings and ensuring the safety and security of the courthouse, its patrons and its employees, the subcommittee also acknowledges that the policy should not too broadly or unreasonably restrict the possession and use of electronic devices within the courthouse and that use of electronic devices in the courthouse and courtrooms may be permitted with appropriate regulations in place.

The Ninth Circuit Special Subcommittee for Electronic Devices has considered this matter and reasonably concluded accordingly:

Given the expanding wireless communications infrastructure and the extent to which the public now depends on this technology, the subcommittee does not believe a broad ban is desirable and may not be feasible. The subcommittee recognizes that there are legitimate

concerns about the potential for misuse of this technology, including by persons summoned for juror service.

(8<sup>th</sup> Rev. Recommendations, Nov. 10, 2009).

Based on comments received from the Guam Bar active membership and discussions held during the Judicial Council meetings, the subcommittee recommended that use of cellular phones and other electronic devices be permitted in the courthouse and courtrooms with reasonable restrictions which would also provide for the imposition of sanctions in the event the policy is violated.

Pursuant, therefore, to its “jurisdiction to issue all orders and writs in aid of its appellate, supervisory, and original jurisdiction, including those orders necessary for the supervision of the judicial branch of Guam” and its authority to “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam,” 48 U.S.C. §1424-1(a)(3) and (6), the Supreme Court hereby issues the following Order governing the use of Electronic Devices on Judiciary of Guam premises:

## **II. Use of Electronic Devices**

**A. “Electronic Device” Defined.** “Electronic Device” means equipment that is used for wireless communication, retrieving, creating, capturing, storing, sending or broadcasting any signals or any text, sound or image, or for accessing the internet or any other network or system.

### **B. Restrictions on Use of Electronic Devices by General Court Patrons.**

1. Any person entering the court is allowed to bring an Electronic Device, as defined herein, into the courthouse.

2. *Except for courtrooms*, persons may use such Electronic Devices in public areas of the courthouse to make telephone calls or to transmit and receive data communications, using the court's wireless internet network. For reasons of privacy, safety, and security, use of these devices to take photographs or for audio or video recording or transmission is prohibited in the courthouse (exceptions for court staff, authorized vendors or for educational or ceremonial events).

3. *In courtrooms*, persons may use such Electronic Devices to take notes and to transmit and receive data communications. Persons *may not* use these devices for telephone calls, photographs or audio or video recording or transmission. The judge may prohibit or further restrict use of such devices if they interfere with the administration of justice, the security of the proceeding or the integrity of the process. The use by news media of cameras and other recording devices such as video cameras and audio equipment not covered under the definition of "electronic devices" herein in the courtroom is addressed separately and is not intended to be covered by this Policy.

4. At all times, cell phones, pagers and other electronic communication devices may be activated only in the "vibration" or "silent" mode inside courtrooms or jury rooms. Such devices may not be activated in courtrooms or jury rooms in any mode that uses any sound to alert the user to incoming communications.

5. Notices shall be posted in the courthouse and on the court's web site advising the public about the Judiciary's Policy on Use of Electronic Devices and detail where and how such Electronic Devices may be used in the courthouse.

### **C. Restrictions on Use of Electronic Devices by Jurors.**

Considering the difficulty the judiciary has in finding jurors, the Judiciary acknowledges that a complete ban on the use of Electronic Devices may impose an unreasonable burden upon jurors who may rely upon the ability to continue to communicate with their businesses or places of work. However, jurors may use their Electronic Devices only as permitted herein.

1. Persons summoned for jury service are allowed to bring an Electronic Device, as defined herein, into the jury assembly area, and to use these devices in the same manner as allowed in other public areas of the courthouse.

2. Jurors *may not* use any Electronic Device in a courtroom during judicial proceedings or in a jury room during or in connection with deliberations. Grand jurors may not use any Electronic Device during or in connection with any proceedings before or deliberations by the grand jury.

3. Jurors *may not* use any Electronic Devices to read news accounts of the trial, conduct research related to the case, ask legal questions of anyone, discuss the case with anyone, or express their views online via blogs, Twitter/Facebook or other social networking sites, instant messaging systems, text messaging or other means.

### **III. Penalties for Violation of Policy**

Upon violation of this rule, any such device may be subject to immediate confiscation by the judge or his/her designee at the judge's sole discretion. In the event the item is confiscated, the designated personnel shall cause the violation to be logged prior to the return of any device. All devices confiscated during the day will be returned between 5:30 and 6:00 p.m. at the counter of the Clerk of Court, Judicial Center Building.

Custody and return of the phone will be recorded in the courtroom log. If return of the phone is not pursued by the device owner within one week of its confiscation, the device shall be surrendered to the Marshal Division who will keep custody of confiscated devices and the device may be considered abandoned by its owner.

In event of subsequent violations of this Policy by any individual, the Electronic Device will not be returned without the payment of a fine of \$50.00 for each subsequent violation of this rule by the same individual. Fines for continued violations by the same individual will increase by an additional \$50 for every violation. For example, the second time the device is confiscated, the fine will be \$100, the third time it is confiscated, the fine will be \$150, and so on. All fines shall be administered by the Administrator of the Courts and deposited to the Judicial Building Fund.

#### **IV. Discretion of Judge**

Any Judge of the Superior Court may impose rules or conditions on electronic devices in his or her courtroom that are less restrictive than these rules in his or her discretion as may be required to serve the orderly proceedings of judicial matters at any time.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

---

**F. PHILIP CARBULLIDO**  
Associate Justice

---

**KATHERINE A. MARAMAN**  
Associate Justice

---

**ROBERT J. TORRES**  
Chief Justice