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SUPERIOR COURT
OF GUAM

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IN THE SUPERIOR COURT OF GUAM

BRYAN J. CRUZ,

Plaintiff,

vs.

DOUGLAS B. MOYLAN, in his official
capacity as the ATTORNEY GENERAL
OF THE OFFICE OF THE ATTORNEY
GENERAL OF GUAM,

Defendant,

Case No. CV0262-25

**Motion to Disqualify Counsel
and Memorandum of Points
and Authorities**

The Office of the Attorney General of Guam ("AG's Office"), through the undersigned, respectfully submits this Motion to Disqualify Counsel Kristine Borja, Jacqueline Taitano Terlaje, and the Law Office of Jacqueline Taitano Terlaje, all of whom represent Plaintiff Bryan J. Cruz, former Criminal Investigator with the AG's Office. This Motion is based on the accompanying Memorandum of Points and Authorities and any evidence to be adduced at a hearing on this matter.

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MEMORANDUM OF POINTS AND AUTHORITIES

The Office of the Attorney General suspended Criminal Investigator Bryan J. Cruz ("Cruz") from his employment as an Investigator III in the Criminal Investigation Unit of the AG's Office on or about July 19, 2024, after discovering that he leaked an internal confidential email on or about July 12, 2024 to local criminal defense counsel Peter Santos ("Attorney Santos"), which had been authored and distributed by the Attorney General from his government-assigned email address. The AG's Office subsequently conducted a thorough investigation that included interviewing various individuals. Based on the findings of the investigation, the Attorney General terminated Mr. Cruz on September 25, 2024. At all relevant times, Attorney Santos represented dozens of ruthless criminal defendants.

Mr. Cruz's forwarding of the email to Attorney Santos endangered the safety of the Attorney General, prosecutors, other investigators, support staff and their families, in addition to revealing confidential methods and tactics of investigations carried out by the AG's Office, which Attorney Santos can now exploit in the future in his representation of criminal defendants being prosecuted by the AG's Office.

Mr. Cruz's actions violated the laws of Guam, government policy, personnel policy, and the Guam Rules of Professional Conduct ("GRPC"). Notwithstanding the incontrovertible evidence of culpability, Mr. Cruz insists the AG's Office wrongfully terminated him. To press his claims, he hired the Law Office of Jacqueline Taitano

1 Terlaje ("Terlaje Law Office") to represent him in an adverse action appeal¹ before the
2 Civil Service Commission ("CSC"), two other legal actions², and the instant case, all of
3 which arise from the same transaction or occurrence. Attorney Kristine Borja
4 ("Attorney Borja"), a former Assistant Attorney General (prosecutor) assigned to the
5 General Crimes Division of the AG's Office, was, and remains, an Associate Attorney
6 in the Terlaje Law Firm. See **Exhibit A, Declaration of Marc Pido, Human Resources**
7 **Supervisor, Office of the Attorney General**. She is also from the same Division that
8 Mr. Cruz worked in in the General Crimes Division.

9 The AG's Office has timely raised this same issue in other forums. On January
10 23, 2025, the CSC conducted a cursory non-evidentiary hearing to consider, among
11 other matters, the AG Office's Motion to Disqualify [Mr. Cruz's] Counsel for Conflict in
12 *In the Matter of: Bryan J. Cruz v. Office of the Attorney General of Guam*, Civil Service
13 Commission Adverse Action No. 24-AA13T at the conclusion of which it denied the
14 motion. On March 24, 2025, it rendered its written order which reads, in part: "The
15 Commission heard the parties' opening statements and arguments on Management's
16 Motion to Disqualify Counsel for Conflict of Interest. The Commissioners questioned
17 each parties' presentation. By a vote of 5 to 0 the Commission denied Management's
18 Motion to Disqualify Counsel for Conflict of Interest." See **Exhibit B, Excerpted**
19 **Decision and Judgment** at pp. 1, 2 & lines 9-12.

20
21 ¹ *In the Matter of: Bryan J. Cruz v. Office of the Attorney General of Guam*, Civil Service Commission Adverse
Action No. 24-AA13T

22 ² See *Office of the Attorney General v. The Guam Civil Service Commission, Bryan J. Cruz*, Superior Court of
23 Guam Case No. SP0055-25 (Verified Petition for Writ of Judicial Review and Declaratory Judgment filed on April
16, 2025); and, *Bryan J. Cruz v. Douglas B. Moylan, in his official capacity as the Attorney General of the*
Attorney General of Guam, Guam Civil Service Commission of Guam Case No. 25-WB01 (Whistleblower's
Complaint filed April 21, 2025).

1 On July 2, 2025, the AG's Office filed a more fully throated motion in *Office of*
2 *the Attorney General v. The Civil Service Commission, Bryan J. Cruz*, Superior Court
3 of Guam Case No. SP55-25 following the filing of Mr. Cruz's Answer to Verified
4 Petition for Writ of Judicial Review and Declaratory Judgment and Counterclaim for
5 Declaratory Relief in that case on May 7, 2025. See **Exhibit C, Excerpted Verified**
6 *Answer to Verified Petition for Writ of Judicial Review and Declaratory Judgment and*
7 *Counterclaim for Declaratory Relief*, pp. 1, 4 and 7. It remains pending.

8 Title 4 Guam Code Annotated § 15210, and GRPC Rules 1.9, 1.10, and 1.11
9 require the immediate disqualification of the Terlaje Law Office and attorneys
10 Jacqueline Taitano Terlaje ("Attorney Terlaje") and Kristine Borja.

11 First, on or about April 17, 2025, Attorney Terlaje and the Terlaje Law Firm filed
12 the Verified Complaint for Retaliation, Request for Special Damages, Injunctive and
13 Declaratory Relief in the instant case. On June 11, 2025, the AG's Office filed its timely
14 Memorandum Supporting Motion to Dismiss Pursuant to Guam's CPGA.

15 Second, Attorney Borja served as an Assistant Attorney General (prosecutor)
16 from January 31, 2022 until her resignation on August 23, 2024. See **Exhibit A**. Third,
17 during her tenure with the Office of the Attorney General, Attorney Borja worked in the
18 General Crimes Division from January 20, 2023 to August 23, 2024. *Id.* Fourth,
19 Attorney Borja became an Associate Attorney in the Terlaje Law Office immediately
20 upon her resignation from the AG's Office on August 23, 2024. *Id.* Fifth, Attorney Borja
21 materially participated in the representation of Mr. Cruz in front of the CSC.

22 Sixth, in their May 7, 2025 filing in *Office of the Attorney General v. The Civil*
23 *Service Commission, Bryan J. Cruz*, Superior Court of Guam Case No. SP55-25, , the

1 Terlaje Law Office and Attorney Terlaje admit that Attorney Borja is an associate with
2 the Terlaje Law Office and concede that she was an Assistant Attorney General with
3 the Office of the Attorney General. See **Exhibit C**, pp. 1, 4 and 7 ("*... [Mr. Cruz] admits*
4 *Attorney Kristine Borja was an Assistant Attorney General from January 2022 to*
5 *August 2024...*" at ¶ 25) and ("*... [Mr. Cruz] admits Attorney Kristine Borja is an*
6 *Associate Attorney with the Law Office of Jacqueline Taitano Terlaje.*" at ¶ 27).
7 Notably, Attorney Borja is a potential witness in the adverse action appeal.

8 The Terlaje Law Office and Attorneys Terlaje and Borja knowingly undertook the
9 legal representation of Mr. Cruz in this case, and in other related legal cases arising
10 from the same operative facts, following Criminal Investigator Cruz's dismissal from the
11 AG's Office on September 25, 2024. On that date, Attorney Borja was already an
12 Associate Attorney in the Terlaje Law Office, having joined on or about August 2024
13 upon her resignation from the AG's Office on August 23, 2024. Accordingly, at the
14 time of Criminal Investigator Cruz's initial engagement of these legal advocates, these
15 seasoned attorneys knew they could not represent a private client like Mr. Cruz in any
16 matter adverse to the Office of the Attorney General, Attorney Borja's former employer.
17 See 4 GCA § 15210(b); see also GRPC Rules 1.9, 1.10 and 1.11.

18 In her capacity as an Assistant Attorney General, Attorney Borja had access to
19 "confidential government information"³ such as criminal prosecution files, internal
20 information technology systems used to transmit electronic e-mails, and other
21 confidential information that the Office of the Attorney General is prohibited from

22 ³ "...the term 'confidential government information' means information that has been obtained under
23 governmental authority and which, at the time this Rule is applied, the government is prohibited by law from
disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public."
GRPC 1.11(c)

1 disclosing to the public.⁴ Specifically, during her assignment to the General Crimes
2 Division, Attorney Borja: (1) received the confidential email communication sent by the
3 Attorney General; and (2) learned of Criminal Investigator Cruz' unauthorized
4 forwarding of confidential government information to Alternate Public Defender
5 Defense Attorney Peter Santos.

6
7 **4 GCA § 15210 RESTRICTION ON POST
EMPLOYMENT PROHIBITS REPRESENTATION**

8 Title 4 Guam Code Annotated § 15210, Restriction on Post Employment, reads
9 as follows:

10 (a) No former employee shall disclose any information
11 which by law is not available to the public and which the
employee acquired in the course of official duties or use the
information for personal gain or the benefit of anyone.

12 (b) No former employee shall, within twelve (12) months
13 after termination from employment, assist any person or
14 business, or act in a representative capacity for a fee or
other consideration, on matters involving official action by
the particular territorial agency with which the employee had
actually served.

15
16 Sub-section (b) unequivocally prohibits Attorney Borja from representing former
17 Criminal Investigator Cruz in any matter adverse to the AG's Office. The facts are
18 clear: (1) Attorney Borja resigned as an Assistant Attorney General on August 23,
19 2024; (2) Attorney Borja is acting in a representative capacity on a matter involving
20 official action (the filing of Case No. CV0262-25) of a particular territorial agency (like

21
22 ⁴ All confidential government information was protected by the attorney-client privilege, the work product
23 doctrine, and the deliberative process privilege. *See, e.g. Maricopa Audubon Soc. v. U.S. Forest Service*, 108 F.3d
1089, 1092-1093 ("The purpose of the deliberate process privilege 'is to prevent injury to the quality of agency
decisions' by ensuring that the 'frank discussion of legal or policy matters' in writing, within the agency, is not
inhibited by public disclosure." [citations omitted]).

1 the AG's Office) where she served within the 12 month restriction on post-employment;
2 and (3) The Terlaje Law Firm and Attorney Terlaje have admitted in a pleading that
3 Attorney Borja is an Associate Attorney in the law firm and formerly worked at the AG's
4 Office. See **Exhibits A and C**. The AG's Office has opposed Mr. Cruz's claims in all
5 forums. Accordingly, Attorney Borja is statutorily disqualified from representing Mr.
6 Cruz.

7 Sub-section (a) also prohibits Attorney Borja from representing former Criminal
8 Investigator Cruz because she acquired confidential government information which by
9 law is not available to the public and which she acquired in the course of her
10 employment as an Assistant Attorney General. The facts are clear: (1) on or about
11 July 12, 2024, she received the aforementioned email that Mr. Cruz improperly shared
12 with Alternate Public Defender Santos; and (2) from January 10, 2023 to August 23,
13 2024 she was assigned to the sparsely-staffed General Crimes Division where she had
14 access to prosecution files and matters involving Mr. Cruz's improper conduct. She
15 also worked with Criminal Investigator Cruz during her employment in the AG General
16 Crimes Division. Once she joined the Terlaje Law Office, she materially participated in
17 the representation of Mr. Cruz in front of the CSC. There can be no doubt that
18 Attorney Borja has disqualifying personal experience with the subject matter of this
19 case which could potentially make her a witness in the adverse action appeal.

20 Further, her continued representation of Mr. Cruz unfairly places the AG's Office
21 and the People of Guam (client and former employer) at a disadvantage because she
22 can use the confidential government information that she gained through her former
23 employment and whilst representing the People of Guam who are synonymous with

1 the AG and AG's Office as officers and entities of the People of Guam. Accordingly, 4
2 GCA § 15210 disqualifies Attorney Borja from representing Mr. Cruz in any forum
3 adverse to the AG's Office and People.

4 **GUAM RULES OF PROFESSIONAL CONDUCT 1.9 AND 1.11 REGARDING**
5 **GOVERNMENT EMPLOYEES PROHIBITS REPRESENTATION**

6 Guam Rules of Professional Conduct 1.9(a) reads:

7 A lawyer who, has formerly represented a client in a matter
8 shall not thereafter represent another person in the same or
9 a substantially related matter in which that person's interests
are materially adverse to the interests of the former client
unless the former client gives informed consent, confirmed in
writing.

10 From January 31, 2022 until her resignation on August 23, 2024, Attorney Borja
11 served as an Assistant Attorney General representing the people of Guam. The people
12 of Guam are considered clients of the AG's Office. *See In re Request of Lourdes A.*
13 *Leon Guerrero, I Maga'hågan Guåhan, Relative to the Duties of the Attorney General*
14 *of Guam to Executive Branch Agencies*, 2024 Guam 18, ¶ 40, Opinion ("AG Moylan is
15 correct, that, because he is elected by the people of Guam, acting in the people's and
16 the public's interest is considered a core function of the Office of the Attorney General.
17 [citation omitted]."). Attorney Borja's continued representation of Mr. Cruz in any legal
18 matter opposed by the AG's Office is materially adverse to the interests of the people
19 of Guam, and we do not waive any conflict, her former clients. But for her role as an
20 advocate for the people of Guam, she would not have had access to the same email
21 chain with Mr. Cruz, or been privy to activities, internal conversations and meetings
22
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1 that followed and were related to Mr. Cruz's unauthorized dissemination of AG Office's
2 confidential communications.

3 Guam Rules of Professional Conduct 1.11(a) and (b) reads:

4 (a) Except as law may otherwise expressly permit, a lawyer
5 who has formerly served as a public officer or employee of
6 the government:

7 (1) is subject to Rule 1.9(c); and

8 (2) shall not otherwise represent a client in connection
9 with a matter in which the lawyer participated personally and
10 substantially as a public officer or employee, unless the
11 appropriate government agency gives its informed consent,
12 confirmed in writing, to the representation.

13 (b) When a lawyer is disqualified from representation under
14 paragraph (a), no lawyer in a firm with which that lawyer is
15 associated may knowingly undertake or continue
16 representation in such a matter unless:

17 (1) the disqualified lawyer is **timely** screened from
18 any participation in the matter and is apportioned no part of
19 the fee therefrom; and

20 (2) written notice is promptly given to the appropriate
21 government agency to enable it to ascertain compliance with
22 the provisions of this rule.

23 Attorney Borja works in a two-lawyer law firm and both she and Attorney Terlaje
have already been actively working on this case together for almost a year. The Terlaje
Law Office knew or should have been aware of the conflict of interest at the inception
of the case. As such, screening should have occurred at the beginning of Mr. Cruz's
representation. Further, Attorney Terlaje should have known that, given Attorney
Borja's conflict, her office should not have taken the case. It has become apparent
that screening did not occur and that, instead, Attorney Borja's former association with
the government is being used to the disadvantage of the people of Guam.

1 **GUAM RULES OF PROFESSIONAL CONDUCT 1.10 AND 1.11 REQUIRE**
2 **THE IMPUTATION OF ATTORNEY BORJA'S CONFLICT OF INTEREST**
3 **TO THE TERLAJE LAW OFFICE AND ATTORNEY TERLAJE**

4 Pursuant to GRPC 1.9(a), 1.10(a) and 1.11(a)(2), Attorney Borja's disqualifying
5 conduct must be imputed to the Terlaje Law Office and Attorney Terlaje.

6 Guam Rules of Professional Conduct 1.10(a) reads, in relevant part:

7 (a) While lawyers are associated in a firm, none of them
8 shall knowingly represent a client when one of them
9 practicing alone would be prohibited from doing so by Rules
10 1.7 or 1.9...

11 As shown above, 4 GCA § 15210 and GRPC 1.9 (a) and (b) require Attorney Borja's
12 disqualification from representing Mr. Cruz. Notably, she already worked at the Terlaje
13 Law Office at the time Mr. Cruz hired that firm. Moreover, as a former Assistant
14 Attorney General with the AG's Office she cannot represent Mr. Cruz against the AG's
15 Office within twelve (12) months of her August 23, 2024 resignation.

16 In situations where a firm becomes associated with a former government
17 employee who is ethically-compromised by a prospective client's case, GRPC 11(b)
18 mandates that *"the disqualified lawyer [be] timely screened from any participation in*
19 *the matter and [be] apportioned no part of the fee therefrom; and ...written notice [be]*
20 *given to the appropriate government agency to enable it to ascertain compliance with*
21 *the provisions of this rule."* Here, the Terlaje Law Office did not screen Attorney Borja
22 and, in fact, Attorney Borja advocated for Mr. Cruz before the CSC. In addition, the
23 Terlaje Law Office failed to provide any written notice regarding the potential
 deficiency.

The collusion between these legal advocates has materially disadvantaged the AG's Office. See GRPC 11(c) ("...a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that of the person in a matter in which the information could be used to the material disadvantage of that person."). Not only was Attorney Borja an Assistant Attorney General in the General Crimes Division in July 2024 when then Criminal Investigator Cruz forwarded without any authorization the email to Alternate Public Defender Peter Santos, but she had access to confidential government information that likely makes her a witness in the adverse action appeal.

Therefore, for the reasons stated above, Attorney Borja's compromised representation must be imputed to the Terlaje Law Office and Attorney Terlaje with whom she practices law. In their roles as advocates for Mr. Cruz, they shared all knowledge regarding information relevant to the prosecution of Mr. Cruz's claims in the above forums.

CONCLUSION

Other jurisdictions have disqualified counsel for similar conduct under 18 U.S.C.A § 207, a substantially analogous federal statute to 4 GCA § 15210. That federal statute requires the disqualification of former government attorneys who assist in actions adverse to their former government employers. See 18 U.S.C.A § 207 ("Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the

1 *United States), or of the District of Columbia, and who, after the termination of his or*
2 *her service or employment with the United States or the District of Columbia,*
3 *knowingly makes, with the intent to influence, any communication to or appearance*
4 *before any officer or employee of any department, agency, court, or court-martial of the*
5 *United States or the District of Columbia, on behalf of any other person (except the*
6 *United States or the District of Columbia) in connection with a particular matter—(A) in*
7 *which the United States or the District of Columbia is a party or has a direct and*
8 *substantial interest ...” is permanently restricted from such representation.”); See also*
9 *In re Restaurant Development of Puerto Rico, Inc., 128 B.R. 498, 499-501 (1991). The*
10 *former government attorney’s actions need not be substantial for disqualification to*
11 *attach. See e.g., Kessenich v. Commodity Futures Trading Commission, 684 F.2d 88,*
12 *95 (D.C. Cir. 1982) (disqualified former government attorney who only received a copy*
13 *of the complaint); Accord United States v. Miller, 624 F.2d 1198, 1200, 1202 (3d Cir.*
14 *1980) (disqualified former U.S. Attorney although had no direct participation in case*
15 *because his actions also violated Rules of Professional Conduct).*

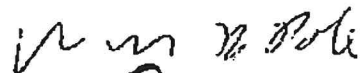
16 The termination of Bryan Cruz and the filing of the instant case are official
17 actions of the Office of the Attorney General. 4 GCA § 15210 and the Guam Rules of
18 Professional Conduct prohibit Attorney Borja from representing an employee of the
19 Office of the Attorney General. Attorney Borja was an employee of the Office of the
20 Attorney General at the time of the incident, in the General Crimes Division with former
21 Criminal Investigator Cruz at all relevant times. The law office that she is employed
22 with failed to wall her off and the entire firm is now disqualified from representation.
23

1 The law requires that Attorney Borja, the Terlaje Law Firm, and Attorney Terlaje be
2 disqualified from further representation.

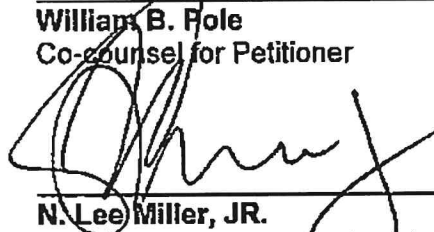
3 The Office of the Attorney General respectfully requests that this Honorable
4 Court enter an order disqualifying the Law Office of Jacqueline Taitano Terlaje,
5 Attorney Jacqueline Taitano Terlaje and Attorney Kristine Borja from further legal
6 representation of Real Party in Interest Bryan J. Cruz and grant Mr. Cruz a reasonable
7 period of time to obtain new counsel.

8 Respectfully submitted this 3rd day of July, 2025.

9
10 OFFICE OF THE ATTORNEY GENERAL
Douglas B. Moylan, Attorney General

11 

12 William B. Fole
Co-counsel for Petitioner

13 

14 N. Lee Miller, JR.
15 Deputy Attorney General, Civil Division

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IN THE SUPERIOR COURT OF GUAM

BRYAN J. CRUZ,	)	CIVIL PROCEEDINGS CASE NO. CV0262-25
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
DOUGLAS B. MOYLAN, in his official	)	OPPOSITION TO MOTION TO
capacity as the ATTORNEY GENERAL OF	)	DISQUALIFY COUNSEL
THE OFFICE OF THE ATTORNEY	)	
GENERAL OF GUAM,	)	
	)	
Defendant.	)	

No facts in this case support the Office of the Attorney General's (hereinafter "OAG") motion to disqualify Attorney Kristine B. Borja (hereinafter "Attorney Borja"), or the law firm where she is currently employed, in the representation of Plaintiff BRYAN J. CRUZ (hereinafter "Plaintiff" or "Mr. Cruz"). Attorney Borja's prior employment, as an Assistant Attorney General and Prosecutor, and without any advice, representation, or involvement in the adverse action against Mr. Cruz do not require her disqualification under 4 GCA §15210.

Plaintiff, by and through his attorney of record, Jacqueline Taitano Terlaje of the Law Office of Jacqueline Taitano Terlaje, hereby submits his opposition to the OAG's Motion to Disqualify Employee's Counsel. This opposition is based on the following points and authorities and such documentary evidence and any oral evidence as may be adduced at any hearing set on the matter.

I. FACTUAL BACKGROUND

The Attorney General of Guam (hereinafter "AG"), Douglas B. Moylan, distributed an office wide email to all employees of the OAG disparaging Assistant Alternate Public Defender Peter J. Santos (hereinafter "Attorney Santos") on July 12, 2024. Mr. Cruz was terminated on September 25, 2024, based on providing a copy of the email to Attorney Santos. Following timely appeal of termination to the Guam Civil Service Commission (hereinafter "Commission"), Mr. Cruz was ordered reinstated by the Commission. The OAG filed its Petition for Judicial Review on April 16, 2025, appealing the Decision and Judgment, including the Commission's order denying disqualification of Mr. Cruz's counsel. Verified Petition (Apr. 16, 2025).

Attorney Borja was an employee of the OAG when the AG sent the email about Attorney Santos on July 12, 2024; she was neither assigned nor responsible for any adverse action matters for the OAG on or before July 12, 2024 through her resignation on August 23, 2024. *See Declaration of Kristine B. Borja* (Jan. 07, 2025) (hereinafter "Dec. K. Borja"), attached hereto as Exhibit A.

Attorney Borja was not involved in the investigation of Mr. Cruz on behalf of the OAG at any time during her employment. *Id.* Attorney Borja was neither a witness nor acting for or on behalf of the OAG in reference to the adverse action investigation and any action taken against the Mr. Cruz. *Id.* The OAG Report of Investigation (hereinafter "ROI") identifies the details of their investigation, including the names of employees interviewed, and the names of OAG management, who participated in the decision-making process.¹ Attorney Borja is not identified as a witness with any knowledge; neither is she identified as part of the Management-team providing any advice or counsel to the OAG on the determination of the adverse action against Mr. Cruz.

¹ Counsel for Plaintiff can submit a copy of the OAG's Report of Investigation under seal. It is notable this report was generated by the OAG and raises the question of its motion being made in bad faith.

1 The OAG now seeks disqualification of Mr. Cruz's counsel, and the Law Office of Jacqueline Taitano
2 Terlaje, on the basis that Attorney Borja was an employee of the OAG on July 12, 2024, and that she is a
3 witness to the events related to the adverse action of Mr. Cruz. Verified Petition, ¶ 59 and 60. The OAG
4 further seeks disqualification asserting a general prohibition set forth in under 4 GCA §15210.

5 6 II. LEGAL ARGUMENT

7 The OAG's reliance on 4 GCA § 15201 is either misplaced or is a blatant attempt to knowingly
8 mislead the Court of violation of both Guam law and the Guam Rules of Professional Responsibility. 4
9 GCA § 15201(a) provides, "no former employee shall, within twelve (12) months after termination from
10 employment, assist any person or business, or act in a representative capacity for a fee or other consideration,
11 on matters **involving official action** by the particular territorial agency **with which the employee had**
12 **actually served.**" 4 GCA § 15210(a) (emphasis added). 4 GCA § 15210(a) is simply not applicable to
13 Attorney Borja.

14 First, it is indisputable that (1) Attorney Borja was an Assistant Attorney General (hereinafter
15 "AAG") with the OAG until August 23, 2024 and (2) she did not participate in any official action related to
16 this case while she was an AAG. *See Dec. K. Borja* (Jan. 07, 2025). "Official act" or "official action," as
17 defined by the statute is "a decision, recommendation, approval, disapproval, or other action, including
18 inaction which involves the use of discretionary and non-discretionary authority." 4 GCA § 15102(i). The
19 OAG asserts without any basis in fact or law that Attorney Borja has a conflict because she was previously
20 employed by the OAG. The OAG relies on nothing other than her mere employment with the OAG.
21 Importantly, the OAG makes no effort to produce any factual support of its claim that Attorney Borja
22 "actually served" or made any decision, recommendation or other action, as defined by the statute. Reading
23 the statute as a whole, there is no doubt that the intention of Chapter 15 of Title 5 is to govern relationships
24 around contracts, gifts, and other pecuniary interest situations that can affect the contract interests of the
25 Government of Guam. *See* 4 GCA § 15100 *et seq.* and 15201 *et seq.* Even if the statute encompasses situations
26 beyond this, it is still inapplicable to this case as Attorney Borja did not participate in the investigation or
27
28

1 Management's decision against Mr. Cruz in this case while she was employed at the OAG. *See* Dec. K Borja
2 (Jan. 07, 2025). Notably, the OAG does not deny this in their motion.

3 The one and only fact asserted by the OAG of is its absurd interpretation of law is that Attorney
4 Borja is one of approximately one hundred employees at the OAG who received this agency-wide disparaging
5 email, which formed the basis for the Final Notice of Adverse Action (hereinafter "FNAA") against Mr.
6 Cruz. However, there is no violation under the statute, unless Attorney Borja actually served in the official
7 action taken in this case by the OAG. The OAG does not in either its motion, the discovery in this case, or
8 by the sworn affidavits submitted in support show that Attorney Borja gave any advice, recommendation, or
9 took any official action in relation to this case.

10 Rather, the OAG, in an unsupported effort, makes a wild allegation that Attorney Borja obtained
11 confidential information about this case while an employee of the OAG without referencing what
12 confidential information could or has been received by Attorney Borja. The statute defines confidential
13 information as "information which is considered a private document by existing laws, and which the
14 employee acquires in the course of official duties, or the use of information for personal gain or for the
15 benefit of someone else." 4 GCA §15203. It is undisputed that Attorney Borja has confidential information
16 related to the cases she prosecuted and assisted in the prosecution of and that she must maintain
17 confidentiality related to those cases. However, the contents of the AG's email and Attorney Santos's
18 response are both public documents. Attorney Borja is not mentioned in the over 800 pages of discovery
19 provided by the OAG in this case. Further, when the Commission questioned the OAG about what
20 information Attorney Borja has related to this case at a motion hearing, the OAG did not identify any
21 information or state any role Attorney Borja had in the OAG's decisions related to this case.

22 Additionally, the ROI by OAG then-Acting Chief Investigator Maria Apuron specifically names the
23 OAG employees who were interviewed in the course of the investigation of this case and the members of
24 the OAG Management who participated in the decision-making process at any point before Mr. Cruz was
25 served the Proposed Notice of Adverse Action ("NPAA") or FNAA. Attorney Borja is not mentioned in
26 the ROI in any capacity.

27 It is the NPAA and FNAA that is the official action in this case. It indisputable the NPAA and the
28 FNAA were served after Attorney Borja had resigned from the OAG. It also indisputable that Attorney

1 Borja was present as Mr. Cruz's counsel when Mr. Cruz was served the FNAA. *See* Dec. K. Borja (Jan. 07,
2 2025). The Court can also take notice that Attorney Borja filed an Entry of Appearance and appeared before
3 the Commission on several Status Calls in this case without objection from the OAG.

4 The OAG further tries to argue that Attorney Borja should be disqualified because the OAG feels
5 "disadvantage[d]." The OAG previously conceded that Attorney Borja is not conflicted from criminal and
6 other civil cases involving the OAG as the Guam Rules of Professional Conduct which govern her conduct
7 are not violated by her subsequent employment. *See* Motion to Disqualify Employee's Counsel (Violation of
8 4 GCA §15210)(Dec.18, 2024), attached hereto as Exhibit B. While the OAG claims disadvantage, the party
9 who is truly disadvantaged in this case by this nonsensical motion, is Mr. Cruz, who was terminated for
10 releasing a public document, and who was unlawfully subjected to an illegal search. The Court should take
11 notice that the OAG fails to cite to any law or rule that requires the disqualification of an attorney simply
12 because the other party feels "disadvantaged".

13 The OAG further raises arguments under the Guam Rules of Professional Conduct (hereinafter
14 "GRPC"), but as with its arguments under 4 GCA §15202, fails to correctly and specifically identify the
15 conflict. It is undisputed Attorney Borja was a Prosecutor who represented the "People of Guam" in criminal
16 cases when she was assigned to the General Crimes Division and enforced Child Support orders between
17 custodial and non-custodial parents when she was assigned to the Child Support Enforcement Division.
18 However, the party in this case is OAG Management, due to its unjustifiable action. This motion is yet
19 another blatant example of how the OAG continues to act in direct contravention of Guam law and
20 continues to retaliate against Mr. Cruz. It also raises the question of the OAG bringing frivolous claims and
21 not having candor to the Court, both of which are violations of the Guam Rules of Profession Conduct. *See*
22 GRPC Rule 3.1 and 3.3.

23 Lastly, all attorneys in Guam, in this action and otherwise, are obliged to conform their conduct to
24 the Guam Rules of Professional Conduct. Attorney Borja and the Law Office of Jacqueline Taitano Terlaje,
25 take their responsibility under Guam law very seriously and request the Court require the OAG to similarly
26 conform their conduct in compliance with their obligations under their licensing with the Courts of Guam.
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III. CONCLUSION

Guam law prohibits former government employees who advised or represented an agency in official action from obtaining a benefit, assisting or representing a third party against the agency for a period of twelve months in matters where the employee "actually served." Attorney Borja's former employment with the OAG does not restrict or disqualify her or this firm from representing Mr. Bryan Cruz in this case before the Court challenging his wrongful termination due to the illegal actions of the OAG.

Attorney Borja did not advise or represent the OAG in the action against Mr. Cruz, in an official action or otherwise. Thus, 4 GCA § 15210 does not apply. The OAG's only factual assertion in this case is an undisputed fact Attorney Borja was employed at the OAG when the public document and disparaging email for which Mr. Cruz was wrongfully terminated was received by all OAG employees, including Attorney Borja. This does not make her a necessary witness. Indisputably, the NPAA and FNAA were served after Attorney Borja resigned from the OAG, Attorney Borja was not involved in any investigation for the OAG against Mr. Cruz, and Attorney Borja was not a member of Management determining its official action against Mr. Cruz. Therefore, the OAG's motion to disqualify this firm should be denied.

Respectfully submitted this 31st day of July, 2025.

LAW OFFICE OF
JACQUELINE TAITANO TERLAJE, P.C.

By: /s/

JACQUELINE TAITANO TERLAJE
Attorney for Plaintiff, *Bryan J. Cruz*



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FILED
SUPERIOR COURT
OF GUAM

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CLERK OF COURT

BY: 

IN THE SUPERIOR COURT OF GUAM

BRYAN J. CRUZ,

Plaintiff,

vs.

**DOUGLAS B. MOYLAN, in his official
capacity as the ATTORNEY GENERAL
OF THE OFFICE OF THE ATTORNEY
GENERAL OF GUAM,**

Defendant.

Case No. CV0262-25

**Reply to Opposition to Objection
to Disqualify Plaintiff's Law Office**

In Plaintiff Cruz's ("Cruz") opposition, he completely ignores 4 GCA § 1250, that both restricts and prohibits any former employee within 12 months of leaving any Government of Guam Agency from acting in a representative capacity in a matter against that Agency. Clearly, without dispute, Attorney Borja worked for the AG's Office within 12 months of representing an employee of the AG's Office against the AG's Office and People of Guam / Government of Guam. Guam law simply prohibits that conduct, specifically acting in a representative capacity in a matter against that Agency. Attorney K. Borja ("Attorney Borja") is an associate attorney at the Law Office

1 of Jacqueline Taitano Terlaje, P.C. whose law firm is representing Cruz against the
2 AG's Office / Government of Guam. . See 4 GCA § 1250(b).

3 Guam law not only protects the integrity of the Government and the People of
4 Guam's legal interests, but limits the likelihood that someone would try to influence an
5 outcome because their Attorney knows people at the agency, or understands the
6 conflict that could only be had by being inside the Government of Guam at the time the
7 issues developed. The Guam Legislature made a policy decision prohibiting its former
8 employees from engaging in the exact conduct occurring herein. Cruz in his opposition
9 fails to explain why this straightforward law does not apply. The Guam Legislature's
10 prohibition creates a violation of the Guam Rules of Responsibility, and the law office's
11 failure to create a wall around Attorney Borja requires the entire law office to be
12 disqualified.

14 Title 4 GCA § 1250 does not require that the employee handled the matter when
15 they worked for the Government, but rather that they were an employee within 12
16 months of leaving the agency and that agency is involved in the issue. Both facts are
17 undisputed and mitigate against Mr. Cruz. When the statute is unambiguous the
18 inquiry by the court is complete. See *People v. Quichocho*, 1997 Guam 13, ¶ 5. The
19 Court is to look into whether the language is plain and unambiguous. See *Aguon v.*
20 *Gutierrez*, 2002 Guam 14, ¶ 6.

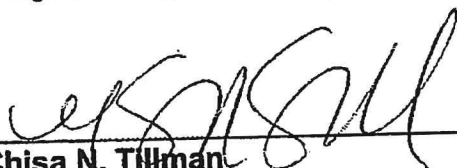
21 In the present case we have more, the attorney for Mr. Cruz received the email
22 chain that got him fired and was present at the Office whilst the adverse action was
23 going on. Attorney Borja is a fact witness to the facts of this case, and moreover falls
24 within the scope of § 1250's prohibition. Attorney Borja was privy to evidence and
25 understanding of the case that one would not otherwise possess. There is no need as

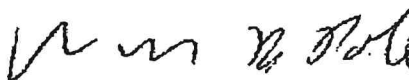
1 indicated by Mr. Cruz for there to be more. It is sound public policy to limit the ability of
2 a litigant to use a Government Attorney who may gain valuable information while in the
3 employment of the Government. *Please see Board of Education v. Nyquist*, 590 F.2d
4 1241(2d Cir. 1979). Guam law limits employment of its Employees one year after
5 leaving service for this reason. To ignore this law would be to undermine the legislative
6 intent.

7
8 Guam Rule of Professional Conduct 1.1(2) allows a waiver if and when the
9 Government Agency provides a conflict waiver in writing. Guam R Prof. Conduct
10 1.1(2). No written waiver exists in this case and so the Rules of Professional Conduct
11 don't allow for further representation. The entire law firm must be disqualified under
12 Guam's imputed disqualification rule and the failure of Cruz's law office to wall off other
13 attorney(s). Guam R Prof. Conduct 1.10.

14
15 **Respectfully submitted** this 14th day of August, 2025.

16 **OFFICE OF THE ATTORNEY GENERAL**
17 Douglas B. Moylan, Attorney General of Guam

18
19 
20 **Chisa N. Tillman**
21 Assistant Attorney General

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23 

24 **William B. Pole**
25 Co-Counsel for Defendants