

FILED
SUPERIOR COURT
OF GUAM

2025 OCT 30 PM 2: 52

CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

RON HOCOG AND TIFFANY HOCOG,
Individually and as parents of Beau Jermaine
Iba Hocog, deceased,

Plaintiffs,

vs.

DR. MARIANA COOK-HUYNH, GUAM
MEMORIAL HOSPITAL AUTHORITY and
DOES 1-20,

Defendants.

CIVIL CASE NO. CV0140-25

ORDER

This Order concerns whether this Court will entertain Plaintiffs' Motion for Reconsideration, filed under CVR 7.1, while an appeal is pending. At a scheduling conference hearing on September 17, 2025, held in anticipation of setting trial dates for Plaintiffs Ron and Tiffany Hocog's remaining claims against Defendant Guam Memorial Hospital Authority, the parties discussed whether the Court had jurisdiction over the pending reconsideration motion.

Defendant Dr. Mariana Cook-Huynh contends that Guam Rule of Appellate Procedure 4(a)(4)(A) specifies which types of motions a lower court may decide while an appeal is pending, and because the Hocogs did not file a motion under those rules, this Court is divested of jurisdiction. However, GRAP 4 appears to pertain to the timing of a notice appeal should certain motions be filed; it therefore does not appear to dictate the scope of a lower court's jurisdiction during an appeal.

Instead, the Court has reviewed *Hemlani v. Flaherty*, which establishes that a "lower court retains jurisdiction to consider and deny a [Guam Rule of Civil Procedure] 60(b) motion

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after a notice of appeal has been filed.” 2002 Guam 10 ¶ 10. In this case, however, Plaintiffs’ motion for reconsideration is filed under CVR 7.1, not GRCP 60(b). Though there are similarities between these two rules, this Court is not inclined to equate a CVR 7.1 motion to a GRCP 60(b) motion, and therefore sua sponte expand its jurisdiction, without further guidance from the Guam Supreme Court.

For that reason, or until otherwise ordered by the Guam Supreme Court, this Court will take no further action on Plaintiffs’ motion for reconsideration while an appeal from the Partial Judgment is pending.

SO ORDERED, 30 October 2025.


HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

SERVICE VIA EMAIL

I acknowledge that an electronic copy of the original was e-mailed to:

M. Smith; Donna Law

Answer
Date: 10/30/25 Time: 1:54 PM

Scott Hermosilla
Deputy Clerk, Superior Court of Guam

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SUPERIOR COURT
OF GUAM

2025 OCT 30 PM 3:33

CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM BY: 

RON HOCOG and TIFFANY HOCOG,
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Ibo Hocog, deceased,

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DR. MARIANA COOK-HUYNH, GUAM
MEMORIAL HOSPITAL AUTHORITY and
DOES 1-20,

Defendants.

CASE NO. CV0140-25

ORDER TO SHOW CAUSE

TO: MARK SMITH, ESQ.

Pursuant to Guam Rule of Civil Procedure 11(b) and 11(c)(1)(B), General Rule of Practice GR2.1, and Local Rule of Practice CVR 7.1(l), the Court hereby **ORDERS** you to **SHOW CAUSE** on **Tuesday, December 23, 2025, at 9:30 a.m.**, why you should not be sanctioned for misconduct. More specifically, such misconduct concerns the 11 misstatements contained within Plaintiffs' Opposition to Defendant Dr. Mariana Cook-Huynh's Motion to Dismiss filed on June 11, 2025, as pointed out by the Court in its August 11, 2025 Decision and Order, and to which you took "full responsibility" for in your September 22, 2025 Declaration.

In addition, misconduct considered by the Court includes two other misstatements which may violate the aforementioned rules and render you subject to sanctions:

- Page 10 of the Opposition states:

Under 7 GCA § 12109, Guam's wrongful death statute provides for:

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‘Damages...for the loss of companionship, love, affection, comfort, care, assistance, protection, and moral support.’

Section 12109 contains no such quote.

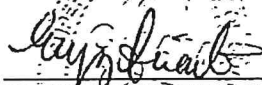
- Page 5 of the Opposition references 7 GCA § 4103 as giving original jurisdiction to the Superior Court over all civil actions. However, 7 GCA § 4103 concerns the powers of the presiding judge; it does not give jurisdiction guidelines for the Superior Court.

Sanctions for misconduct to be considered by the Court include, but are not limited to:

(1) a monetary sanction of up to \$5,000; (2) referral to the ethics prosecutor; (3) attorney’s fees incurred as a result of the sanctionable conduct; and/or (4) disqualification as counsel of record for Plaintiffs Ron and Tiffany Hocog in all future trial court proceedings. In evaluating misconduct and assessing sanctions, the Court will consider whether your misconduct was frivolous or in bad faith and the extent to which you violated your ethical responsibilities (including the potential improper use of artificial intelligence).

You may rely on your September 22, 2025 Brief and accompanying declarations in responding to this Order to Show Cause and may provide supplemental briefing in writing no later than **November 14, 2025**. Other appearing parties may file a response to the September 22, 2025 Brief and any supplemental brief no later than **November 28, 2025**, and you may file a Reply no later than **December 12, 2025**.¹

SO ORDERED, 30 October 2025.


HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

¹ This briefing schedule renders moot the Hocogs’ October 2, 2025 Motion to Strike. The Court disregards the September 30, 2025 Response filed by Dr. Mariana Cook-Huynh and considers only the filings presented in compliance with the deadlines in this Order.

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I acknowledge that an electronic
copy of the original was e-mailed to:

M. Smith

Date: 10/30/24 Time: 3:34 PM

Scott E. Hermosilla
Deputy Clerk, Superior Court of Guam



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OF GUAM

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CLERK OF COURT

BY: www

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Attorney for Plaintiffs *Ron & Tiffany Hocog*

IN THE SUPERIOR COURT OF GUAM

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Iba Hocog, deceased,

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MEMORIAL HOSPITAL AUTHORITY and
DOES 1 – 20,

Defendants.

CIVIL CASE NO. CV0140-25

**DECLARATION OF
MARK S. SMITH IN SUPPORT OF
RESPONSE TO COURT ORDER AND
OPPOSITION TO SANCTIONS**

I, Mark S. Smith, declare as follows:

1. I am an attorney licensed to practice before the courts of Guam, and I am counsel of record in this matter. I submit this declaration in support of my response to the Court's Order regarding alleged violations of Rules 1.1 and 1.3 of the Guam Rules of Professional Conduct.

2. The Court identified certain citation errors in a pleading filed on behalf of my client. I acknowledge that the filing contained inadvertent mis-citations that arose during the final preparation process.

3. I take full responsibility for the filing submitted under my name. However, the errors at issue resulted from an oversight in the final editing process, not from any lack of preparation, competence, or diligence in my representation of the client.

4. I acted in good faith at all times, and remedial measures have been put in place to prevent this from happening in the future. My overall handling of the case has been diligent, timely, and consistent with the obligations set forth under the Guam Rules of Professional Conduct.

5. I respectfully submit that the identified error constitutes an isolated mistake rather than sanctionable conduct. It does not reflect a pattern of neglect, lack of diligence, or incompetence.

I declare under penalty of perjury under the laws of Guam, 6 GCA §4308, that the foregoing is true and correct.

Executed this 22nd day of September, 2025.

By:

Mark Ingraham

MARK S. SMITH
Attorney for Plaintiffs

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2025 AUG 20 PM 4:42

CLERK OF COURT

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CIVIL CASE NO. CV0140-25

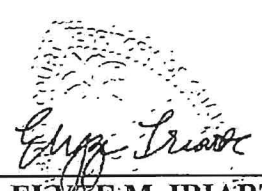
BY: for

ORDER

TO: ATTORNEY MARK SMITH

The Court in its August 11, 2025 Decision and Order noted numerous erroneous statements made by you in your clients' June 11, 2025 Opposition to Defendant Dr. Mariana Cook-Huynh's Motion to Dismiss. You are hereby ORDERED to file a brief with the Court no later than September 22, 2025, explaining why and how these errors were made. Based on your explanation, the Court may allow for response briefing by Defendants before determining if and what sanction is appropriate.

SO ORDERED this 20 August 2025.


HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

SERVICE VIA E-MAIL
I acknowledge that an electronic
copy of the original was e-mailed to:
M. Smith

8/20/25 4:50pm
Date Time

BTMESA for
Deputy Clerk, Superior Court of Guam

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