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IN THE SUPERIOR COURT OF GUAM

LOURDES A. LEON GUERRERO, /
MAGA'HĀGAN GUĀHAN, GOVERNOR /
OF GUAM, *in her official capacity*, /

Plaintiff, /

vs. /

DOUGLAS B. MOYLAN, ATTORNEY /
GENERAL OF GUAM, *in his official* /
capacity, /

Defendant. /

Superior Court Case No. CV0190-25

Statement of Objection

Pursuant to § 6107 of Title 7 of the Guam Code Annotated, and as ordered by the Court at the May 20, 2025, hearing, Defendant Attorney General ("Attorney General") respectfully alleges as follows:

1. The facts giving rise to this Objection involve the background of The Honorable John C. Terlaje ("Court") and Plaintiff Governor of Guam. ("Governor").

2. The Honorable John C. Terlaje is the presiding judge in the above-captioned civil case.

FILED
SUPERIOR COURT
OF GUAM

2025 MAY 21 PM 4:55

CLERK OF COURT

BY: 

ORIGINAL

1 3. On or about March 18, 2025, the Governor filed a Complaint for
2 Declaratory Judgment seeking the appointment of a special prosecutor to investigate
3 and to potentially prosecute the Attorney in this case.

4 4. The Honorable John C. Terlaje was appointed by the Governor on
5 October 25, 2022. Exh. F, p. 049.

6 5. The Attorney General and the Governor have taken adversarial legal
7 positions on numerous political and legal matters, including the construction of a
8 medical complex. Defendant, the Attorney General, has also been investigating the
9 prosecution of numerous members of Plaintiff Governor's cabinet.

10 6. The Court started presided over this civil case on March 18, 2025;
11 however, no substantive activity other than the filing of this complaint has occurred
12 due to the parties disputing the proper issuance of a summons.

13 7. On May 11, 2025, the Court conducted its first hearing. The hearing was
14 scheduled to decide the parties' dispute over a properly issued summons. The Court
15 found the issue moot inasmuch as both parties stipulated that the summons would
16 need to be reissued as a 60 days summons. Before the hearing began Defendant
17 raised this disqualification with the Court in a side bar disclosure. The Court ordered
18 that any objections be filed by this date.

19 8. On information and belief, from 2007 up to her assuming office on or
20 about 2018, Plaintiff Governor was President and CEO of the Bank of Guam. ("the
21 Bank"). Exh. C, 029.

22 9. On information and belief, Plaintiff is a major shareholder in the Bank
23 and owns approximately \$1,500,000.00 in common and preferred shares in the Bank.
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1 Exh. A, p. 003.

2 10. On information and belief, Plaintiff is a recipient of a pension from the
3 Bank. Exh. A, p. 010.

4 11. On information and belief, before becoming the Governor, Plaintiff was
5 the President and Chief Executive Officer of the Bank.

6 12. On information and belief, Plaintiff Governor's son Joaquin Cook took
7 over as the President and Chief Executive Officer of the Bank shortly after Plaintiff
8 became Governor. Exh. B.

9 13. On information and belief, on April 15, 2020, the Bank approved the
10 Honorable John C. Terlaje, through his law firm, for a loan in the amount of \$26,125
11 as part of the Paycheck Protection Program ("PPP"). Exh. D., p. 031.

12 14. On information and belief, On January 19, 2021, the Bank approved the
13 Honorable John C. Terlaje, through his law firm, for a loan in the amount of \$21,570
14 as part of the PPP. Exh. D., p. 034.

15 15. On information and belief, the Honorable John C. Terlaje claimed
16 income from the Law Offices of John C. Terlaje as recently as 2024. Exh. E, p.045.

17 16. On information and belief, the Honorable John C. Terlaje has two (2)
18 secured loans with the Bank. Exh. E, 042.

19 17. On information and belief, those 2 secured loans have acceleration
20 clauses contained within them that if a default occurs may be accelerated so the full
21 balance of the loans can be made due and payable at the Bank of Guam's option.

22 18. On information and belief, the Honorable John C. Terlaje has a checking
23 account with the Bank. Exh. E, p.040.

1 19. On information and belief, the Honorable John C. Terlaje over and over
2 again chooses a banking relationship with the Bank, a bank in which Plaintiff Governor
3 has a significant interest.

4 20. The Honorable John C. Terlaje was appointed by Plaintiff Governor to
5 his current position as a Judge, and this case concerns, at its core, the power of the
6 Governor to potentially remove the Attorney General by appointing a prosecutor to
7 criminal prosecute to remove the Attorney General. Such prosecution could be
8 intended to stop the ongoing investigations and prosecutions into Plaintiff Governor's
9 administration.

10 21. Plaintiff Governor seeks to have this Court exercise a power not
11 authorized by Congress or the Guam Legislature, nor ever exercised by the Guam
12 Judiciary. When to trigger the appointment process is undefined as well by Congress
13 or the Guam Legislature.

14 22. The Honorable John C. Terlaje, in Case Number CV290-25, entitled
15 *Gov. v. AG and AG's Office*, issued a Temporary Restraining Order, without notice
16 and on request of Plaintiff Governor, and such Order failed to comply with almost all
17 the requirements for a Temporary Restraining Order. Exh. G, p. 050.

18 23. The Attorney General recognizes that "judicial rulings alone almost never
19 constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510
20 U.S. 540, 555, 114 S. Ct. 1147, 1157, 127 L. Ed. 2d 474 (1994). In *Liteky*, the
21 Supreme Court recognized the "extrajudicial source" doctrine whereby a party could
22 demonstrate an extrajudicial source to suggest the possibility of bias. The facts herein
23 demonstrate an extrajudicial source to suggest the possibility of bias.
24
25

I.

The Court's Impartiality Might Reasonably Be Questioned, 7 G.C.A. § 6105(a)

24. The above paragraphs are hereby incorporated herein.

25. Guam law requires under 7 G.C.A. § 6105(a) that a Judge disqualify oneself when the Judge's impartiality might reasonably be questioned.

26. The California Court of Appeal analyzed the relevant California Codes of Civil Procedure. Under sections 170.1 and 170.5, the standard is no longer whether a judge's stock ownership creates "an immediate and direct interest in the outcome of the litigation." Instead, if a judge has a "legal or equitable interest in a party" that exceeds \$1,500, the judge is automatically disqualified. We conclude that this language applies to a judge's interest in the parent of a wholly owned subsidiary party. In our view, the Legislature's express reference to a "legal or equitable interest in a party" indicates that the Legislature did not intend for the scope of the financial interest disqualification rule to depend on the nature of any legalistic corporate organizational structure. (§ 170.5, subd. (b), italics added.) *Chaganti v. Superior Ct.*, 73 Cal. App. 5th 237, 246, 288 Cal. Rptr. 3d 238, 244–45 (2021).

27. Guam has no \$1,500.00 equitable interest requirement. In Guam, as in the federal judicial disqualification statute, the standard is much lower broadening the legal standard to, "*ownership of a legal or equitable interest, however small.*" 7 GCA § 6105(d)(4).

28. This case is about the personal power of Plaintiff Governor, not the power of the Office of the Governor of Guam itself. Plaintiff Governor here is requesting a personal power, the appointment of a special prosecutor. This has never

1 been done in Guam before through the Courts, and is only within the providence of the
2 Legislative Branch to establish the due process protections for anyone who may be
3 the target of an investigation. Congress and the Guam Legislative have vested the
4 ability to prosecute crimes only within an elected Attorney General. 48 USC §
5 1421g(d)(1). 5 GCA Chapter 30.

6 29. As noted above, Plaintiff Governor appointed Honorable John C.
7 Terlaje. At least three Superior Court judges have recused themselves when one of
8 the parties to the lawsuit had appointed that judge to the bench. *Ada v. Gutierrez*,
9 2000 Guam 22, ¶ 14 (Guam July 20, 2000) ("Because every judge on the Supreme
10 and Superior Courts of Guam was appointed by either one of the parties in this case,
11 every judge who could hear this case could be accused of appearing partial. If every
12 judge could appear partial, it becomes less important for Judge Manibusan to
13 disqualify himself.") In this case, however, not every judge of the Superior Court was
14 appointed by the Plaintiff, i.e., not every judge would appear partial. Plaintiff
15 Governor's personal request in this case is akin to the personal issues in *Ada v.*
16 *Gutierrez*, 2000 Guam 22 wherein the Court had to decide who would be the next
17 Governor of Guam and there were no judges available to hear the case who were not
18 appointed by either the incumbent Governor nor the candidate seeking to become
19 Governor.
20 Governor.

21 30. The issues raised by Plaintiff Governor raise a political question, apart
22 from being within the providence of the Guam Legislature to provide for establishing a
23 public prosecutor to investigate and prosecute the person holding the position as
24 Attorney General of Guam. Questions include when it is appropriate to appoint, who
25

1 can appoint, the scope of authority, the salary, the funding source, protections to avoid
2 financial incentives to prosecute, etc.

3 31. Defendant continues to be prejudiced based upon the foregoing
4 conflicts.

5
6 **II.**

7 **Court Has a Financial Interest, 7 GCA § 6105(b)(4), as defined by 7 GCA § 6105**
8 **(d)(4).**

9 32. The above paragraphs are hereby incorporated herein.

10 33. Guam law requires under 7 G.C.A. § 6105(b)(4) that a Judge disqualify
11 oneself when the Judge knows he has a financial interest in the subject matter where
12 financial interest is defined as ownership of a legal or equitable interest, however small.

13 34. On information and belief, the Honorable John C. Terlaje has two secured
14 loans and a checking account with the Bank of Guam where plaintiff was (1) the
15 President and CEO, (2) the son of the Plaintiff is the current President and CEO, (3) the
16 Plaintiff is a major shareholder, (4) Plaintiff has a secured real estate loan and (5) the
17 Plaintiff has a pension. The two business PPP loans with the Bank issued during the
18 COVID-19 pandemic have since been forgiven. Exhibit D, p. 031, 034.

19 **III.**

20 **Inference of impropriety under Canons 2A and 4D**

21 35. Section 6103 of Title 7 of the Guam Code Annotated incorporates the
22 American Bar Association's Judicial Canons of Ethics to Guam, Canon 2 covers a
23 judge's duty to refrain from the appearance of impropriety. ABA Model Code of Jud.
24 Conduct (1980). The comment to canon 2A specifies: "The test for appearance of
25 impropriety is whether the conduct would create in reasonable minds a perception that
the judge's ability to carry out judicial responsibilities with integrity, impartiality and

competence is impaired." *Id.* An objective observer would likely to see a gift as form of bias. While the 1980 version of the model code incorporated in Guam does not define "gift," a definition can be found in the California Code of Judicial Conduct, which is also adapted from the ABA Canons. California defines a gift as "anything of value to the extent that consideration of equal or greater value is not received." Cal. Code of Jud. Ethics., Terminology.

36. On information and belief, beneficiaries of PPP loans did not have to provide collateral when applying for the loan. If those loans were used solely for payroll, applicants would expect the entire amount of the loan, including interest to be forgiven.

37. The California Code also states that, "[u]nder no circumstance shall a judge accept a gift, bequest, or favor if the donor is a party whose interests have come or are reasonably likely to come before the judge." *Id.*, Canon 4D(5). Canon 4D(1)(b) ABA's Canon of Judicial Ethics, made applicable to Guam by 7 GCA § 6103, prohibits a judge from engaging in financial or business dealings that "involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves."

38. On information and belief, Plaintiff Governor is frequently a party to actions in the courts of Guam.

39. On information and belief, the Plaintiff, through her son, has control of the current financial interests of the Court through the acceleration clause in the two active loans.

40. On information and belief, the Plaintiff benefitted by issuing the PPP loans to the Court due to the inducement offered by the SBA.

1 41. Courts have considered financial interests of judges with banks, even if
2 not always requiring recusal of the judge. *In re United States*, 158 F.3d 26 (1st Cir.
3 1998).

4 42. On information and belief, the personal loans included in the Honorable
5 John C. Terlaje's 2024 Disclosures were exclusively with the Bank of Guam as was his
6 sole bank account. Exh. E, p. 040, 042.

7 43. On information and belief, both PPP loans were applied for and granted by
8 the Bank of Guam. Exh. D, p. 031, 034.

9 44. Continued borrowing of money from attorneys appearing before the court
10 can be seen as violations duties in Canons 2 and 4, involving the appearance of
11 impartiality and financial interests and similarly creates an appearance of impropriety.
12 *Disciplinary Couns. v. Cox*, 770 N.E.2d 1007, 1008 (Ohio 2002).

13 45. Borrowing money is governed by the rules of judicial conduct if it can
14 erode public confidence in the judiciary. *Adams v. Comm'n on Jud. Performance*, 8 Cal.
15 4th 630, 664, 882 P.2d 358, 379 (1994).

16 46. On information and belief, the Bank is an extension of the Plaintiff through
17 her family connections. Plaintiff's status as a party in this matter has the potential to call
18 the Court's impartiality into question and erode public confidence in the judiciary.

19 47. The Attorney General acknowledges that no single factor might merit
20 disqualification, but [t]aking into account the totality of all the circumstances described
21 above, the judge [is] obligated to disqualify h[i]mself." *Com. v. Morgan RV Resorts,*
22 *LLC*, 84 Mass. App. Ct. 1, 14–15, 992 N.E.2d 369, 379 (2013).

23 48. As noted by the California Supreme Court, an "appearance of impropriety,
24 is inherently wrong, and has a subtle, corruptive effect, no matter how much a
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1 particular judge may feel that he is above improper influence." *Adams v. Comm'n on*
2 *Jud. Performance*, 10 Cal. 4th 866, 879, 897 P.2d 544, 549 (1995).

3 Whereas, Defendant Attorney General of Guam requests the following relief
4 based upon the foregoing bases, *either individually or collectively*, to avoid the
5 appearance of impropriety, and because the Court's impartiality may reasonably be
6 questioned:

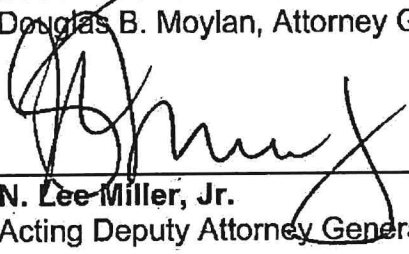
7 1. that the Court disqualify itself pursuant to Guam law;

8 2. that the Court disclose to the parties the financial and other
9 interests as set forth above in order to provide full disclosure and ability of the
10 parties' to consent;

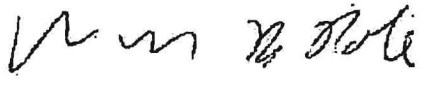
11 3. provide such further disclosures as the Court may believe
12 warranted given the past, current or potential future relationship between the
13 Court and Plaintiff.

14
15 **Respectfully submitted** this 21st day of May 2025.

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

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19 _____
20 **N. Lee Miller, Jr.**
Acting Deputy Attorney General

21 **OFFICE OF THE ATTORNEY GENERAL**
22 Douglas B. Moylan, Attorney General

23 
24 _____
25 **William Pole**
Special Assistant Attorney General

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I declare, under penalty of perjury, this 25th day of May, 2025 that the foregoing is true and correct to the best of my knowledge.

Douglas B. Mayhew

Douglas B. Moylan