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13 *Attorneys for the Government of Guam*

14 **BEFORE THE DISTRICT COURT OF GUAM**

15 CIVIL CASE NO. 1:24-CV-00019

16 JOSE ARLINE DADIVAS DEVELLES,

17 Petitioner,

18 vs.

19 GOVERNMENT OF GUAM, KENDALL T.  
20 DIAZ, AREN L. FABILA and DOES 1 TO  
21 10,

22 Defendants.

23 **MEMORANDUM IN SUPPORT OF**  
24 **MOTION TO DISMISS**  
25 **DEFENDANT GOVERNMENT OF GUAM**  
**FROM SECOND AMENDED COMPLAINT**  
**FOR DAMAGES**

26 Defendant has moved to dismiss the claims against the Government of  
27 Guam made in the above captioned case, pursuant to Guam Code of Civil  
28 Procedure Rules 12(b)(1) and Rules 12(b)(6).

29 The claims against the Government of Guam should be dismissed  
30 because 1) the District Court of Guam has no jurisdiction over claim made  
31 pursuant to local law, and 2) the District Court of Guam has no supplemental  
32 (aka pendant or ancillary), jurisdiction over claims made pursuant to local law.

1 Paragraphs 10 and 11 of Plaintiffs Amended Complaint for Damages  
2 provides:

3  
4 10. This Court has original jurisdiction over this civil action pursuant to  
5 28 U.S.C. 1331 because [Plaintiff] Jose's claims under 42 U.S.C.  
6 1983 arise under federal questions.

7 11. This Court has supplemental jurisdiction all other claims under 28  
8 U.S.C. 1367(a) because they are so related to the federal claims  
9 that they form part of the same case or controversy under Article  
10 III of the United States Constitution.

11  
12 **1) The District Court of Guam has no original jurisdiction over claims made**  
13 **pursuant to local law**

14 28 U.S.C. 1424(b) and (c) provides:

15 **(b) Jurisdiction**

16 The District Court of Guam shall have the jurisdiction of a district  
17 court of the United States, including, but not limited to, the diversity  
18 jurisdiction provided for in section 1332 of title 28, and that of a  
19 bankruptcy court of the United States.

20 **(c) Original Jurisdiction**

21 In addition to the jurisdiction described in subsection (b), the District  
22 Court of Guam shall have original jurisdiction in all other causes in  
23 Guam, jurisdiction over which is not then vested by the legislature  
24 in another court or other courts established by it. In causes brought  
25 in the district court solely on the basis of tis subsection, the district  
court shall be considered a court established by the laws of Guam  
for the purpose of determining the requirements of indictment by  
grand jury or trial by jury.

Subsequent to the enactment of 28 USC 1424(c) the Guam Legislature  
enacted 7 GCA §3105. That statute provides:

1 Jurisdiction of Superior Court. The Superior Court shall have original jurisdiction  
2 over all causes of action, and except for those causes exclusively vested in the  
3 Supreme Court, may have appellate jurisdiction as may be provided by the  
Legislature. (emphasis added)

4 Original Jurisdiction refers to a court's authority to hear and decide a case for  
5 the first time before any appellate review occurs. Thus 7 GCA § 3105 vested in the  
6 Superior Court the jurisdiction originally vested in the District Court of Guam by 28  
7 U.S.C. 1424 (b) and (c).

8 8 U.S.C. § 1331 provides:

9 The district court shall have original jurisdiction of all civil actions arising  
10 under the Constitution, laws, or treaties of the United States. (emphasis  
11 added)

12 Thus, the only jurisdiction exercised by the District Court is that arising under  
13 the Constitution, laws or treaties of the United States.

14 Count V of the Second Amended Complaint alleges "vicarious liability;" Count  
15 VI of the Second Amended Complaint alleges "negligent hiring, retention, supervision  
16 and training;" and Count XI alleges "conversion." The aforesaid causes of action may  
17 not be said to arise under the Constitution, laws, or treaties of the United States,  
18 because the source of those laws is not the Constitution, laws, or treaties of the United  
19 States, and because their geographical applicability is limited to Guam.

20 **2) This Court has no supplemental jurisdiction in this case oer claims based**  
21 **on in local law, because it lacks original jurisdiction over any of the claims**  
22 **made in this case.**

23 The Legal Information Institute states:

24 **Supplemental jurisdiction** allows the federal court to hear additional claims  
25 that it would not independently have subject matter jurisdiction (either diversity

1 jurisdiction or **federal question jurisdiction**) over. These claims must be closely  
2 related to **at least one** of the existing claims that the federal court does have **original**  
3 subject matter jurisdiction over.

4 [http://www.law.cornell.edu/wex/supplemental\\_jurisdiction#:text=Supplemental%20jurisdiction%20allows%20the%20federal,or%20federal%20questions%20jurisdiction%20\)%20over](http://www.law.cornell.edu/wex/supplemental_jurisdiction#:text=Supplemental%20jurisdiction%20allows%20the%20federal,or%20federal%20questions%20jurisdiction%20)%20over).  
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7  
8 The District Court of Guam does not have original jurisdiction over Count XI,  
9 which alleges an integral participation violation actionable under 42 USC 1983. Nor  
10 does the Court have original jurisdiction under any other count. Therefore, the Court  
11 does not have original or supplemental jurisdiction over any count against the  
12 Government of Guam, and those courts should be dismissed.

13  
14 Dated this 8th day of July, 2025.

15  
16 **OFFICE OF THE ATTORNEY GENERAL**  
Douglas B. Moylan, Attorney General

17  
18 By:   
19 **JOSEPH A. GUTHRIE**  
Chief Deputy Attorney General