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SUPERIOR COURT
OF GUAM

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CASE NO. CV0557-02

IN THE SUPERIOR COURT OF GUAM

CARMEN ARCEO LAGUANA and ROMY)
PETER LAGUANA,)

Plaintiffs,)

vs.)

ROSIE VILLAGOMES PALISSON and)
MARIANAS PHYSICIANS GROUP,)

Defendants.)

DECISION AND ORDER

INTRODUCTION

This matter originally came before the court on Defendants Rosie Villagomez Palisson and Marianas Physicians Group's ("Defendants") Motion to Dismiss or in the Alternative Stay Proceedings. On April 4, 2003, this Court denied Defendants' Motion to Dismiss and ruled that the Medical Malpractice Mandatory Arbitration Act, 10 G.C.A. 10100 *et seq.* ("the Act") was inorganic and unconstitutional as it violated the separation of powers doctrine. On July 20, 2004 the Supreme Court of Guam reversed this Court's decision and remanded the case to the trial court to consider Plaintiffs Carmen and Romy Laguana's ("Plaintiffs") remaining challenges to the Act and to reexamine Defendants' Motion to Dismiss. A hearing on remand was held before the Honorable Judge Steven S. Unpingco on October 22, 2004. Fredrick J. Kerley, Esq., represented the Plaintiffs, while Gary D. Hull, Esq. and Michael F. Phillips, Esq., appeared for Defendants Rosie Villagomez Palisson and Marianas Physicians Group, respectively. Having considered the parties' briefs, oral arguments, and the applicable law, the court now issues this Decision and Order.

1 **BACKGROUND**

2 Plaintiff filed a medical malpractice suit against Defendants on April 16, 2002. The
3 Complaint alleges the following: Plaintiff was under the treatment of Defendant Dr. Rosie
4 Villagomez Palisson ("Palisson") between March 1999 and April 2001, during which time
5 Palisson prescribed the drug procainamide. Plaintiff took the drug according to Palisson's orders
6 until May 2001. On April 17, 2001, Plaintiff began her menstrual cycle, which did not stop. On
7 April 30th, Plaintiff went to the Guam Memorial Hospital due to the heavy and abnormal
8 bleeding. On May 8, 2001, Plaintiff underwent an emergency hysterectomy at GMH and on
9 May 11, 2001, Plaintiff was medevaced to Honolulu for further treatment where she was
10 diagnosed with the disease Lupus. Plaintiff alleges that she contracted Lupus because of
11 excessive procainamide that was prescribed by Palisson. She also alleges that the hysterectomy
12 was not necessary. At the hearing, Defendants denied these allegations, claiming that the
13 amount of procainamide was not excessive and that the Lupus was not due to the drug. The
14 Doctor was affiliated with the Marianas Physicians Group ("MPG"). Plaintiff sued Palisson and
15 MPG for malpractice based on the negligent prescription of procainamide, delay in diagnosis of
16 Lupus, and negligence in causing Plaintiff to have an unnecessary emergency hysterectomy.
17 Plaintiff's husband is also suing for loss of consortium.

18 As stated above, Defendants moved to dismiss the Complaint based on the requirements
19 of the Act. In the alternative, Defendants have moved for a stay pending arbitration pursuant to
20 10 G.C.A. § 10114. Plaintiff opposes the motion on the ground that the act is unconstitutional
21 and inorganic. The Court now considers the remaining challenges to the Act posed by the
22 Plaintiffs and the arguments of the Defendants in support of dismissal.

23 **DISCUSSION**

24 **PLAINTIFFS' ARGUMENTS AGAINST DISMISSAL AND IN SUPPORT OF FINDING**
25 **THE ACT UNCONSTITUTIONAL AND INORGANIC**

26 In their original moving papers, Plaintiffs raised numerous arguments challenging the
27 constitutionality and organicity of the Act and asserting the timeliness of their claims against the
28 Defendants. Aside from their arguments concerning the Separation of Powers doctrine, Plaintiffs
also asserted four other arguments against the validity of the Act. First, Plaintiffs argued that the

1 Act's procedural requirements and penalties impinges on their entitlement to a jury trial.
2 Second, Plaintiffs contend that the Act's requirement of a greater than forty percent (40%)
3 improvement over the arbitration award at trial potentially renders a jury verdict ineffective.
4 Third, Plaintiffs argued that the Act violates Equal Protection of the Laws with no satisfactory
5 reason by drawing a distinction first between medical malpractice claimants and all other tort
6 claimants, and by drawing a further distinction between medical malpractice claimants who
7 improve upon the arbitration award by more than forty percent (40%) and are fully compensated
8 and those who do not and are thus penalized instead of compensated. Fourth, the Plaintiffs assert
9 that the Act's procedural requirements including a greater forty percent (40%) improvement over
10 the arbitration award prevents open access to the courts.

11 In their Supplemental briefs, Plaintiffs placed more emphasis on the high costs associated
12 with arbitrating this case with the American Arbitration Association ("AAA") and the fact that
13 the AAA would no longer hear malpractice claims absent a post-dispute agreement to arbitrate.
14 Plaintiffs submit that these two factors essentially leave them and other malpractice plaintiffs
15 without a remedy and without a forum absent an agreement by both parties to submit to
16 arbitration.

17 **DEFENDANTS' ARGUMENTS IN SUPPORT OF DISMISSAL AND THE VALIDITY**
18 **OF THE ACT**

19 Defendants' original briefs in support of dismissal and in support of the validity of the
20 Act focused on the Plaintiffs' failure to timely and properly file their demand for arbitration and
21 the Plaintiffs' failure to sufficiently demonstrate how the Act is unconstitutional as applied or
22 unconstitutional on its face. Regarding timeliness, Defendants assert that Plaintiffs never
23 properly filed their demand for arbitration as required by the Act. The Plaintiffs, according to
24 Defendants, never filed their demand with the AAA and failed to name a tribunal from which the
25 demand purported to claim its jurisdictional authority.

26 In addition to being untimely, Defendants also argue that the Plaintiffs have failed to
27 demonstrate how the Act violates due process, equal protection, or the entitlement to a jury trial.
28 Defendants point out that the Plaintiffs have a very high burden to meet in order to sufficiently
prove that the Act is unconstitutional. Defendants argue that under the rational basis standard of

1 review, the Act is valid and does not violate any of the Constitutional doctrines proffered by
2 Plaintiffs. Defendants further argue that since no fundamental right is at issue and since the Act
3 is rationally related to the legitimate government interest of addressing the medical malpractice
4 crisis on Guam, the provisions of the Act are valid. In other words, the entitlement to a jury trial
5 and the right to open access to the courts may be limited. Regarding the purported high costs of
6 arbitration, Defendants assert that Plaintiffs have failed to provide sufficient evidence to prove
7 that the cost of litigation in this particular case is prohibitively high and instead has only
8 proffered anecdotal evidence of a few isolated cases. The Defendants also point out that both
9 parties are required to comply with the costs of arbitration and the over forty percent (40%) rule
10 after arbitration. Lastly, Defendants maintain that under the Act, if any portion thereof is
11 deemed unconstitutional, those portions may be severed pursuant to 10 GCA § 10147. At the
12 very least, even if the forty percent (40%) rule were severed, the Plaintiffs would still be
13 required to file their demand for arbitration, which they have failed to do.

14 In their supplemental briefs, the Defendants bolstered their argument that the Plaintiffs
15 deliberately chose to ignore the requirements of the Act and instead have decided to challenge its
16 validity. Defendants point out that even after three years have passed, the Plaintiffs still have not
17 filed a proper demand for arbitration with the AAA. The Defendants further argue that the
18 Plaintiffs could have sought a waiver of fees from the AAA but never attempted to do so. In
19 short, Defendants submit that the Plaintiffs failed to timely file their demand for arbitration and
20 have failed to demonstrate how the Act is unconstitutional as applied to them in particular.
21 Lastly, Defendants assert that contrary to what the Plaintiffs have stated and the Supreme Court
22 alluded to in their Opinion, the AAA would still be willing to hear this case in arbitration upon
23 the completion and signature of a simple form.

24 **THE ACT DOES NOT VIOLATE EQUAL PROTECTION, DUE PROCESS, OR THE**
25 **ENTITLEMENT TO A JURY TRIAL**

26 Although the Act is a lengthy and complicated procedural statute, an explanation of the
27 background and contents of the Act is unnecessary because in this Court's previous decision the
28 Court scrutinized the requirements of the Act. When a statute is challenged on either equal
protection, access to the courts, or right to jury trial grounds, the first inquiry required is to

1 determine the appropriate standard of review to apply. In this case, the only arguments raised
2 against the Act deal with violations of equal protection based on the negative impact to a certain
3 class of tort victims, the infringement on the entitlement to a jury trial, and the infringement on
4 open access to the Courts. Since these challenges do not involve any fundamental rights, suspect
5 classes, or even quasi-suspect classes, the Act shall be reviewed under the rational basis standard
6 of review. See Woods v. Holy Cross Hospital, 591 F.2d 1164 (5th Cir. 1979); Hoffman v. U.S.,
7 767 F.2d 1431 (9th Cir. 1985).

8 The Equal Protection Clause directs that "all persons
9 similarly circumstanced shall be treated alike." The initial
10 discretion to determine what is "different" and what is "the same"
11 lies in the state legislatures. The reviewing courts must allow the
12 legislatures "substantial latitude" in order to "account for
13 limitations on the practical ability of the State to remedy every ill."
14 In applying the Fourteenth Amendment to most forms of state
actions, reviewing courts should "seek only the assurance that the
classification at issue bears some fair relationship to a legitimate
public purpose."

15 The Supreme Court, in Western & Southern Life Ins. Co. v.
16 State Bd. of Equalization, 451 U.S. 648, 668 (1981), set forth a two
17 step analysis for determining whether a challenged classification is
18 rationally related to achieving a legitimate state purpose. First, it
19 must be determined whether the challenged legislation has a
legitimate purpose. If it does, the reviewing court must ascertain
whether it was "reasonable for the lawmakers to believe that use of
the challenged classification would promote that purpose[.]"

20 Hoffman, 767 F.2d at 1436-1437 (citations omitted).

21 [R]ational-basis review in equal protection analysis "is not
22 a license for courts to judge the wisdom, fairness, or logic of
23 legislative choices." Nor does it authorize "the judiciary [to] sit as
24 a superlegislature to judge the wisdom or desirability of legislative
25 policy determinations made in areas that neither affect fundamental
26 rights nor proceed along suspect lines." For these reasons, a
27 classification neither involving fundamental rights nor proceeding
28 along suspect lines is accorded a strong presumption of validity.
Such a classification cannot run afoul of the Equal Protection
Clause if there is a rational relationship between the disparity of
treatment and some legitimate governmental purpose. Further, a
legislature that creates these categories need not "actually
articulate at any time the purpose or rationale supporting its

1 classification." Instead, a classification "must be upheld against
2 equal protection challenge if there is any reasonably conceivable
3 state of facts that could provide a rational basis for the
4 classification."

5 A State, moreover, has no obligation to produce evidence
6 to sustain the rationality of a statutory classification. "[A]
7 legislative choice is not subject to courtroom factfinding and may
8 be based on rational speculation unsupported by evidence or
9 empirical data." A statute is presumed constitutional, see *supra*, at
10 2642, and "[t]he burden is on the one attacking the legislative
11 arrangement to negative every conceivable basis which might
12 support it," whether or not the basis has a foundation in the record.
13 Finally, courts are compelled under rational-basis review to accept
14 a legislature's generalizations even when there is an imperfect fit
15 between means and ends. A classification does not fail rational-
16 basis review because it "is not made with mathematical nicety or
17 because in practice it results in some inequality." "The problems
18 of government are practical ones and may justify, if they do not
19 require, rough accommodations--illogical, it may be, and
20 unscientific."

21 Heller v. Doe by Doe, 509 U.S. 312, 319 (1993) (citations omitted).

22 Regarding due process

23 It is well-established that the procedural and substantive
24 requirements of the due process clause are analytically distinct--a
25 procedurally flawed policy can pass substantive muster, and,
26 conversely, a procedurally flawless policy can be substantively
27 unacceptable. When reviewing the substance of legislation or
28 governmental action that does not impinge on fundamental rights,
moreover, we do not require that the government's action actually
advance its stated purposes, but merely look to see whether the
government *could* have had a legitimate reason for acting as it did.

Wedges/Ledges of California, Inc. v. City of Phoenix, Ariz., 24 F.3d 56, 66 (9th Cir. 1994).

Based on the above, it is readily apparent that the burden on Plaintiffs is an extremely
high one requiring them "to negative every conceivable basis which might support" the
legislation. Heller, 509 U.S. at 320. The Guam Legislature was not required to state its intent or
rationale behind the Act or to state the interest furthered by the Act. In order to be upheld, the
Act merely has to have a reasonable or rational relationship with some legitimate government

1 interest. After reviewing the arguments of the parties and the applicable standards of review
2 announced in numerous federal and state cases, the Court finds that the Plaintiffs have failed to
3 meet their burden of proving that the Act has no rational relationship to any legitimate
4 government interest.

5 After reviewing the language of the Act, the language of its predecessor P.L. 13-115, the
6 holding in Awa v. Guam Memorial Hospital Authority, 726 F.2d 594 (9th Cir. 1984), and the
7 Committee Report on Bill No. 325 (what eventually became the Act), it appears quite clear that
8 the Act was intended to address the rising costs of malpractice insurance and to help provide for
9 the prompt, efficient, and effective resolution of medical malpractice claims as opposed to
10 litigation. Reasons such as these have been consistently upheld as legitimate government
11 interests thereby satisfying the first step of the rational basis test. *See e.g. Hoffman*, 767 F.2d
12 1437; Attorney General v. Johnson, 385 A.2d 57, 76 (Md. 1978.) (overruled on other grounds).
13 Turning to the second step of the test, the Court must determine whether the provisions of the
14 Act are rationally related to those or any legitimate government interests.

15 The Act requires all medical malpractice claimants to first submit their claim to
16 mandatory arbitration with the AAA. 10 GCA §§ 10102 and 10103. After all arbitration
17 procedure and proceedings have taken place, the Act then requires that the arbitrators promptly
18 render an award. 10 GCA § 10132. Thereafter, any party may move to confirm, vacate, or
19 modify the award in the Superior Court of Guam. 10 GCA §§ 10135, 10136, 10137. In addition
20 to these alternatives, any party may appeal the award and request for a trial de novo in the
21 Superior Court. 10 GCA § 10139. If a party chooses to appeal the arbitration award, he or she
22 must improve the award by forty percent (40%) or more otherwise that party will be subject to
23 harsh sanctions including, costs, fees, attorney's fees, and costs of jurors. 10 GCA § 10143.

24 The Court finds that these strict and harsh requirements under the Act are rationally
25 related to the legitimate government interest in reducing medical malpractice insurance and to
26 promptly resolve medical malpractice claims in the following ways. First, arbitration generally
27 is a much more prompt and efficient forum to resolve disputes. Parties do not have to comply
28 with the strictures of the Rules of Civil Procedure, Rules of Evidence, or many of the other

1 formalities involved with litigation. *See e.g.* 10 GCA §§ 10116-10121. In other words, the
2 arbitration process is significantly less formal than litigation. The lack of formality may provide
3 for a more efficient and effective collection, presentation, and consideration of evidence. Such is
4 not the case in the Superior Court, where discovery generally takes months, motions can take
5 years to resolve, and trial may not take place until several years after the initial complaint is
6 filed.

7 Second, the prevailing party requirement of a forty percent (40%) or greater improvement
8 and the harsh sanctions involved with that may have been intended to encourage finality of
9 disputes and discourage the endless resolution of malpractice claims via appealing arbitration
10 decisions and awards. By enacting this mechanism for appeal, parties will have to seriously
11 consider the ramifications involved with an appeal. As a result, it is predictable that fewer
12 parties would appeal arbitration decisions thereby resolving malpractice claims much faster.

13 Third, although the Act requires parties to go through arbitration and to consider harsh
14 sanctions before appealing an arbitration award, the Act does allow any party to move to modify,
15 confirm, or vacate the award in the Superior Court. Moreover, the Act does not prohibit a party
16 from appealing an award but instead only requires one to seriously consider the possible
17 ramifications of an appeal. Thus, judicial relief and jury trials are not completely foreclosed by
18 the Act.

19 Fourth, the requirements, costs, and penalties contained in the Act are equally applicable
20 to all parties. The Act does not favor one party over another when it comes to costs and
21 penalties. Both parties must share in the expense of arbitration and both parties are equally
22 subject to the possible penalties of an unsuccessful appeal. 10 GCA §§ 10107 and 10143.

23 Fifth, the prompt resolution of malpractice claims coupled with the lower possibility of
24 an appeal may lead to reduced litigation and reduced jury awards in malpractice cases. This, of
25 course, could lead to a reduction in malpractice cases going to court which in turn could lead to
26 lower medical malpractice insurance for health care providers.

27 In light of the above analysis, the Court finds that the Act does have a rational
28 relationship to some legitimate governmental interest. Although the Act may not efficiently and

1 effectively produce the intended results or advance the governmental interest, this Court's
2 inquiry is limited only to the extent that some rational basis exists for the Act. Since the Court
3 has found that the Act is rationally related to a legitimate governmental interest, the Act is
4 deemed constitutional and organic under the rational basis standard of review.

5 At this juncture, it appears appropriate to address the arguments and cited authority
6 presented by the Plaintiffs. Although the Plaintiffs cited to several cases and proffered what
7 appeared to be strong arguments against the validity of the Act, upon close review, the Court
8 finds that much of what the Plaintiffs presented was either inapposite or unsupported by
9 sufficient evidence. At the outset, the Court must point out that the Plaintiffs were unable to cite
10 to any case from any jurisdiction which invalidated a mandatory medical malpractice arbitration
11 law based on the prohibitive expense of arbitration. Furthermore, Plaintiffs were unable to cite
12 to any case from any jurisdiction which invalidated a mandatory medical malpractice arbitration
13 law because it imposed sanctions for an appellant's failure to improve upon an award by a
14 certain percentage. Additionally, Plaintiffs were unable to cite to any case which invalidated a
15 mandatory medical malpractice arbitration law utilizing a rational basis standard, because it
16 violated the equal protection and due process clauses of the U.S. Constitution, infringed upon
17 open access to the courts, or infringed upon the entitlement to a jury trial.

18 What the Plaintiffs did cite to were cases in which arbitration acts were invalidated
19 because the acts violated certain portions of a state's constitution. See e.g. Mattos v. Thompson,
20 42 A.2d 190 (Pa. 1980); Sofie v. Fibreboard Corp., 771 P.2d 711 (Wash. 1989). Also, Plaintiffs
21 cited to cases which dealt with limits on recovery or damage caps as well as medical review
22 panels which outright prevented some malpractice cases from ever going to court. See e.g. Sofie,
23 42 A.2d 190; Moore v. Mobile Infirmary Assn., 592 So. 2d 156 (Ala. 1991); Hoem v. State, 756
24 P.2d 780 (Wyo. 1988). Such egregious infringement on the role and effect of the jury is simply
25 not present in this case. As to the prohibitive expense of arbitration, Plaintiffs were only able
26 to cite to cases which held certain private arbitration agreements, as opposed to mandatory
27 arbitration laws, unenforceable due to the purportedly high cost of arbitration. See e.g. Gutierrez
28 v. Autowest, Inc., 114 Cal. App. 4th 77 (2003); Shankle v. B-G Maintenance Management of

1 Colorado, 163 F.3d 1230 (10th Cir. 1999); Green Tea Financial Corp. v. Randolph, 531 U.S. 79
2 (2000). In short, most of Plaintiff's substantive authority clearly did not apply to the facts of this
3 case and were therefore of no real significance to the Court.

4 As stated previously, Plaintiffs' supplemental briefs dealt more with the high costs of
5 arbitration and how such costs affected the entitlement to a jury trial and open access to the
6 courts. However, despite the affidavits from Attorney Keogh concerning other cases wherein the
7 high costs of arbitration effectively prohibited malpractice claims from going forward, the
8 Plaintiffs in this case have failed to present sufficient evidence to prove that the cost of
9 arbitrating this particular dispute was prohibitively too expensive. Instead, the Plaintiffs have
10 presented estimates of what the arbitration would have likely cost as well as the Plaintiffs'
11 assertion that pursuing a fee waiver from the AAA would have been futile. However, what is not
12 disputed is the fact that the Plaintiffs never filed their demand for arbitration with the AAA and
13 therefore could not know what the exact cost of arbitration would actually be and since the
14 Plaintiffs never pursued a fee waiver, they could not have possibly known for sure whether they
15 would have been rejected. As pointed out by the Defendants, the fee waiver policy was not
16 subject to a hard and fast rule but instead took into consideration more subjective factors. Since
17 the Plaintiffs were unable to present sufficient authority or evidence in support of their
18 prohibitive expense argument, the Court finds that this argument is either not ripe for
19 consideration as more evidence of cost may be necessary or that analysis would be based on
20 conjecture and assumption of facts not in evidence.

21 Based upon the above, the Court hereby finds the Act Constitutional and Organic facially
22 and as applied.

23 **SINCE THE PLAINTIFFS TIMELY FILED THEIR COMPLAINT DISMISSAL IS NOT**
24 **WARRANTED**

25 On April 16, 2002, Plaintiffs filed a Complaint in the Superior Court and also filed what
26 they purported to be a demand for arbitration. According to the assertions made in the parties'
27 briefs, Plaintiffs had until mid to late April 2002 to commence this action. The applicable statute
28 of limitations for Plaintiffs' claim is codified under 7 GCA § 11308. This statute provides as
follows:

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3 **§ 11308. Action to Recover Damages for Injuries.**

4 An action to recover damages for injuries to the person arising
5 from any medical, surgical or dental treatment, omission or
6 operation shall be commenced with one (1) year from the date
7 when the injury is first discovered; provided, that such action shall
8 be commenced within three (3) years from the date of treatment,
9 omission or operation upon which the action is based.

10 7 GCA § 11308.

11 Defendants argue that since the Plaintiffs have failed to properly file a demand for
12 arbitration with the AAA within the time prescribed under § 11308, this case should be
13 dismissed for violation of the statute of limitations. Although the Plaintiffs clearly filed their
14 Complaint within the statute of limitations, Defendants assert that Plaintiffs were actually
15 required to file their demand for arbitration within the statute of limitations as well. The Court
16 does not agree.

17 According to 10 GCA § 10114,

18 [i]f any suit or proceeding is brought in the courts of Guam upon
19 any issue referable to arbitration under this chapter, the Court in
20 which said suit is pending, upon being satisfied that the issue
21 involved in such suit or proceeding is referable to arbitration under
22 this chapter, shall upon application of one of the parties, stay all
23 proceedings in the action until such arbitration has been had...

24 10 GCA § 10114. Based upon the unambiguous language of § 10114, the Act contemplated that
25 certain malpractice claims would first be brought in the Superior Court as Plaintiffs in this case
26 have done. Pursuant to § 10114, when such a claim is commenced in the Superior Court, the Act
27 requires that upon application of a party, all proceedings be stayed until the matter is arbitrated.
28 Since the Act makes no mention of dismissal for filing a malpractice claim in the Superior Court
or for failing to file a demand for arbitration within the statute of limitations for malpractice
claims, the Court finds that the Act does allow for malpractice claims to proceed in the Superior
Court so long as neither party demands arbitration.

More importantly, whether or not a malpractice claimant ever files a demand for
arbitration is irrelevant for purposes of dismissal under § 11308. In other words, a claimant may

1 initiate arbitration by filing a demand for arbitration or a claimant may simply file a complaint in
2 the Superior Court and wait for the opposing party to demand arbitration, if such demand is
3 made at all. In short, what matters for purposes of § 11308 is whether the claimant commenced
4 the action within the time prescribed in the statute. In this case, it is undisputed that the Plaintiffs
5 timely filed their Complaint. Dismissal, therefore, is unwarranted. The fact that the Plaintiffs'
6 demand for arbitration may have been insufficient or improper is of no consequence. However,
7 since the Defendants have also moved alternatively for a stay pending arbitration, pursuant to 10
8 GCA § 10114, the Court hereby stays these proceedings until arbitration is conducted in
9 accordance with the Act.

10 CONCLUSION

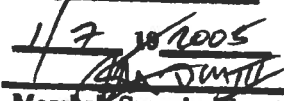
11 Based upon the foregoing, Defendants' Motion to Dismiss is hereby DENIED. However,
12 Defendants' Alternative Motion to Stay Proceedings is hereby GRANTED.

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14 SO ORDERED this 7th day of January, 2005.

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18 HONORABLE STEVEN S. UNPINGCO
19 Judge, Superior Court of Guam
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IN THE SUPERIOR COURT OF GUAM SUPERIOR COURT

6 CARMEN ARCEO LAGUANA and
7 ROMY PETER LAGUANA,

8 Plaintiffs,

9 vs.

10 ROSIE VILLAGOMEZ PALISSON and
11 MARIANAS PHYSICIANS GROUP,

12 Defendants.

CIVIL CASE NO. CV0557-02

STIPULATION AND ORDER
OF DISMISSAL WITH
PREJUDICE

14 COME NOW the respective attorneys for plaintiffs and the defendants herein, who hereby
15 STIPULATE and AGREE that this matter be dismissed in its entirety, with prejudice, each party to
16 bear its own fees and costs.

18 SO STIPULATED this 17 day of August, 2005.

19 GARY D. HULL, P.C.

LAW OFFICE OF FREDERICK J. KERLEY

21 By:

22 GARY D. HULL
23 Attorney for Defendant
24 Rosie Villagomez Palisson

By:

FREDERICK J. KERLEY
Attorney for Plaintiffs

Dated: 8/17/05

FJR

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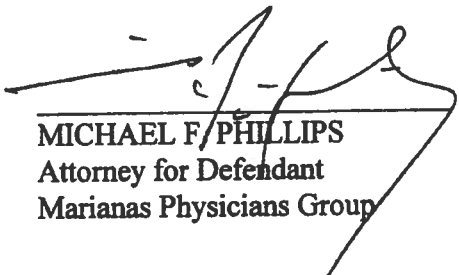
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ORIGINAL

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1 PHILLIPS & BORDALLO, P.C.

2
3 By: 

4 MICHAEL F. PHILLIPS
5 Attorney for Defendant
6 Marianas Physicians Group

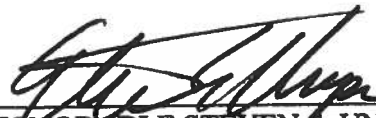
7 * * *

8 **ORDER**

9 Based upon the upon the foregoing Stipulation of the respective parties herein, it is hereby
10 ORDERED that the above-entitled matter be and is hereby dismissed with prejudice, each party to
11 bear its own fees and costs.

12 **SO ORDERED:**

13 **DATED: AUG 22 2005**

14
15 
16 HONORABLE STEVEN S. UNPINGCO
17 Judge, Superior Court of Guam

18 CV:RPAL:STIP.04-#7253