



HON. ROBERT J. TORRES
CHIEF JUSTICE

Supreme Court of Guam

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HANNAH G. ARROYO
CLERK OF COURT

To: All Guam Bar Association Members
Date: February 21, 2023

Re: Notice and Opportunity to Comment on Proposed Amendment to Miscellaneous Rule 1.1.5(a) of the Local Rules of the Superior Court of Guam (Indigent Defense Rule)

Dear GBA Members:

The Supreme Court is considering adopting the attached amendments to M.R. 1.1.5(a) of the Local Rules of the Superior Court, which propose an increase to the hourly rate of compensation for attorneys appointed under the Indigent Defense Rule, as well as an increase to the maximum compensation for misdemeanor cases.

Written comments on the proposed amendment may be sent no later than **March 7, 2023**, by email to Hannah G. Arroyo, Clerk of Court for the Supreme Court of Guam, at hgutierrezarroyo@guamcourts.gov or to the following address:

Hannah G. Arroyo, Clerk of Court
Supreme Court of Guam
Suite 300, Guam Judicial Center
120 West O'Brien Drive
Hagåtña, Guam 96910

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MR 1.1.5. COMPENSATION.

(a) Unless otherwise provided for, the hourly rate for legal services by counsel appointed under these Rules shall be ~~\$100.00~~ \$148.00 per hour for legal services rendered in and out of the courtroom, subject to the following maximums:

(1) Not more than \$25,000.00 shall be paid in cases where the defendant faces life imprisonment (without the imposition of an Extended Term under 9 GCA § 80.32).

(2) Not more than \$20,000.00 for First Degree Felonies other than those compensated under category (1).

(3) Not more than \$10,000.00 for Second Degree Felonies.

(4) Not more than \$7,500.00 for Third Degree Felonies.

(5) Not more than ~~\$3,500.00~~ \$3,600.00 shall be paid for misdemeanors.

(6) Not more than \$3,150.00 shall be paid for habeas corpus proceedings.

(7) Not more than \$3,150.00 shall be paid for juvenile delinquency cases.

(8) Not more than \$7,500.00 for attorneys appointed in juvenile special proceedings cases or appointed to provide guardian ad litem services.

(9) Not more than \$10,000.00 shall be paid for each level of appeal in a particular case.

For First Degree Felonies in which the court appoints more than one attorney, not more than \$30,000.00 total will be paid, to be divided among the attorneys. For any other case in which the court appoints more than one attorney, the cap and hourly rates will remain the same, to be divided among the attorneys.

In the event an attorney is appointed in separate cases that are fully or partially consolidated, the attorney may not submit duplicative billings in multiple cases for the same hours worked. Instead, the attorney should divide the hours worked by the number of cases in which the hours will be claimed, and apply the appropriate fraction in the billings for each case.

Counsel appointed under these rules may apply to the Administrator of the Courts to exceed these maximums and/or contest whether the appropriate maximum has been identified for a specific case. Counsel must demonstrate extraordinary circumstances and good cause to justify an exception to the maximums. Approval of any amount in excess of the limits herein shall be approved by the Administrator of the Courts. The Superior Court Judge presiding over the case may provide input in this regard. In determining whether the circumstances of a particular case are extraordinary, the Administrator of the Courts shall consider the following non-exhaustive list of factors:

- i. Multiple defendants
- ii. Joint or separate trials with co-defendants
- iii. Multiple incidents (including multiple victims in separate incidents)
- iv. Mistrials and re-trial(s)
- v. Substitution of trial counsel; additional trial proceedings or phases (e.g., grand jury, competency phase, sanity phase)
- vi. Multiple special circumstances
- vii. Prior convictions or unadjudicated conduct admitted at penalty phase
- viii. Prosecution's use of informants
- ix. Extensive litigation of the admissibility of evidence
- x. Forensic testing, analysis, and evidence (e.g., DNA, hair, fingerprint, blood, ballistics) introduced at trial or necessary for habeas investigation

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- xi. Mentally ill or mentally impaired defendants
- xii. Non-English-speaking defendant or witnesses
- xiii. Minimal guilt and/or penalty phase investigation done for trial
- xiv. Investigation requirements in multiple locations, requiring travel
- xv. Extended elapsed time since offenses/trial
- xvi. Necessity of expert witnesses
- xvii. Necessity of using some fees to cover investigative and incidental expenses
- xviii. Length of record
- xix. Number of trial witnesses

No single factor is dispositive, and the Administrator of the Courts shall weigh all factors in determining whether the representation in any particular case is extraordinary.

(b) Application for payment by appointed counsel shall be submitted on the appropriate voucher form to the Clerks of the Superior Court and Supreme Court, whichever is applicable. Appointed counsel shall submit vouchers on a monthly basis. The Clerks for each court shall not approve payments unless vouchers are submitted as herein provided. The Administrator of the Courts shall have sixty (60) days to act on the submitted voucher. Failure to act within the sixty-day time period shall be deemed an approval of the submitted voucher.

(c) Court Interpreter Compensation.

(1) REGISTERED BLOCK PAY – Non-Trial Hearings:

(A) \$60.00 per HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block will be paid in full even if the interpreter only works for a fraction of a Half Day Block.

(B) \$90.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.

(C) \$16.00 per hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(2) REGISTERED BLOCK PAY – Trial

(A) \$80.00 per HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block will be paid in full even if the interpreter only works for a fraction of a Half Day Block.

(B) \$110.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.

(C) \$20.00 per hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(3) REGISTERED NON-BLOCK PAY – Non-Courtroom Matters (office appointments/visits to the Department of Corrections)

(A) \$28.00 per hour, compensated at $\frac{1}{4}$ fractions of the hour.

(4) UNREGISTERED NON-BLOCK PAY - All matters.

(A) \$16.00 per Hour, not to exceed \$60.00 per day, including after 5:00 p.m. Unregistered interpreters may be compensated for waiting time in addition to actual interpreting time. Calculations should be made to the nearest $\frac{1}{4}$ fraction of the hour.

(5) APPEARANCE FEE. The following compensation shall apply to a courtroom hearing, or

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non-courtroom matter/appointment that is cancelled due to no fault of the interpreter, and the interpreter appeared in conformity with his/her scheduled assignment.

- (A) Courtroom Appearance Fee - \$30.00
- (B) Appointment Appearance Fee - \$12.00

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002). Rule 13.5(A) and (C) repealed and reenacted by PRM04-003 (Feb. 27, 2004). Rule 13.5(A) and (C) amended by PRM05-004. MR 1.1.5(a)(5) added by Promulgation Order No. 06-006-03 (Oct. 2, 2007). MR 1.1.5(a)(1) amended by PRM06-006-06 (July 16, 2008). MR 1.1.5(a)(4) amended by PRM06-006-07 (July 28, 2009). MR 1.1.5(d) adopted pursuant to PRM13-001-01 (Mar. 6, 2013), amended by PRM13-001-03 (July 1, 2013).