

# GUAM BAR BRIEF

# 40<sup>th</sup> ANNIVERSARY

ISSUE 003 | DECEMBER 2018

## An Inside Peek

- A History of GBA Presidents
- ABA Law Day Awards
- Territorial Law Issues
- Subpoena Register
- Synoptic Briefs

## Celebrating 40 Years!

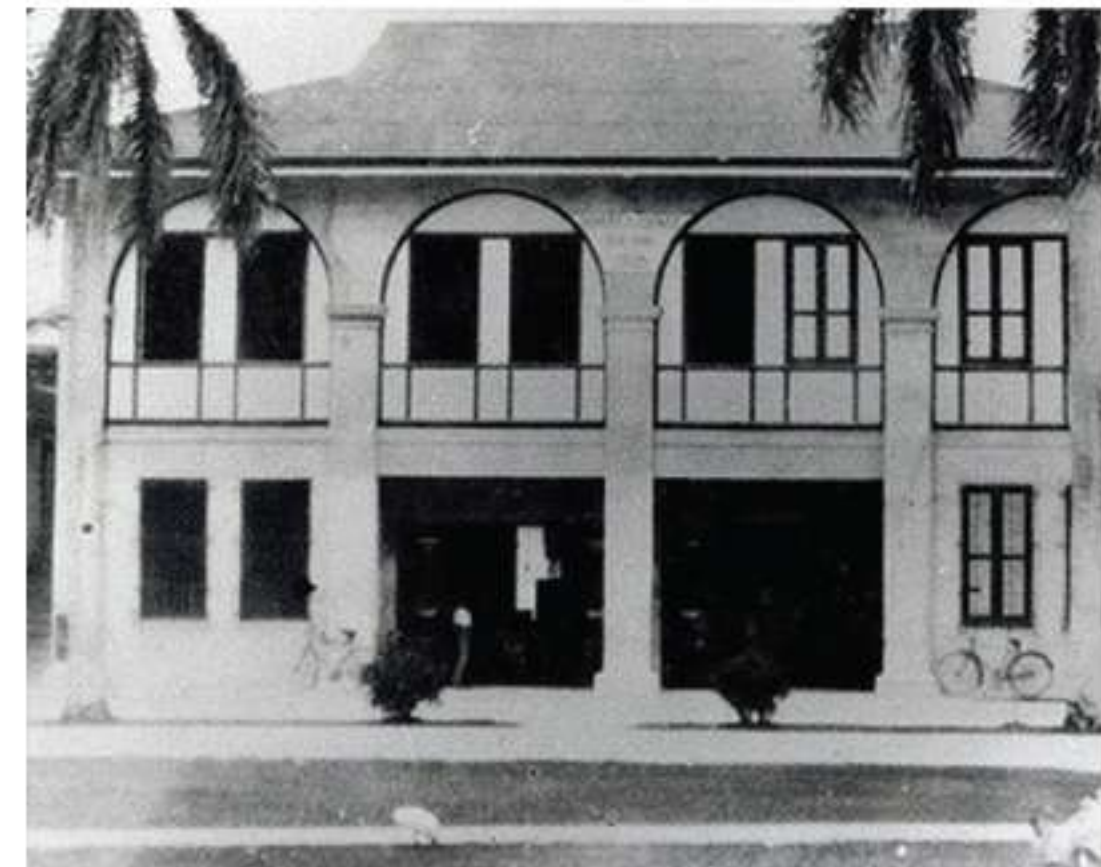
Biba! The Guam Bar Association celebrates 40 years as a Public Body Corporate with the passage of P.L. 14-102 (1978)(originally Bill 74S). The bill sponsored by then Senator Joseph F. Ada, established the Guam Integrated Bar Act, and created the Guam Bar Association (GBA).

Guam law provided that "No person shall practice law in Guam without having been admitted to the practice by the District Court of Guam." P.L. 03-11 (Aug. 14, 1956). P.L. 03-11 required attorneys to be citizens of the United States, residents of Guam for six (6) months, and at least twenty-three (23) years of age. Admission did not require completion of law school, but also permitted admission with the study of law both "diligently and in good faith" for a period of five (5) years under an attorney, and the passage of a written exam. P.L. 03-11 was approved by the 3rd Guam Legislature, and by Acting Governor William Corbett, who was a United States Department of Interior attorney who served as Secretary of Guam.

In February 1963, the 7th Legislature limited the admission of the practice law further for those who had not graduated from law school. A ten (10) year preceptorship was required under a "legally admitted attorney" defined as one who graduated from an American Bar Association accredited university, and imposed a full-time employment, in addition to the passage of a written exam.

From these small excerpts of history, we can see that the admission to practice of law on Guam was quite interesting. The history of the courts of Guam was no less exciting with the fight over the establishment of Guam's first Supreme Court of Guam in 1974, which was abolished, and after many years of legal

battles was the Judiciary of Guam established as a third co-equal branch of government. Prior to 1978 an association of lawyers known as the Guam Bar Association did exist, but not as a public body corporate, but as a voluntary association of lawyers. Some of our prior Presidents were attorneys Harry M. Boertzel (1978), James S. Brooks (1974), Douglas F. Cushnie (1973), Howard Trapp (1965) and Loretta Smith (1953).



*US Naval Era - Island Court System*

Today, as we celebrate 40 years of the establishment of the Guam Bar Association, we have nearly 500 members, both active and inactive. Today, none of our members serve as our historian. In researching the history of the Guam Bar Association, I observed – generally speaking, lawyers are not historians. In awe of the history that the legal community has passed from the days of a Naval Government to the days of the first elected Maga'håga we must acknowledge the necessity to trace our rich history of the practice of law on Guam. I conclude this historical review of the GBA by imploring upon our membership – is there anyone willing to serve the important role of GBA historian? In preparation for our 50th Anniversary set for 2028, I am confident that with another decade, the GBA will have not only been a part of Guam history, but will make history on our beautiful island of Guam.

*Merry Christmas and Happy New Year!  
Happy 40th Anniversary to all!*



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info@guambar.org  
https://guambar.org

# *A History of* **GBA PRESIDENTS**

Jacqueline T. Terlaje	2017-Present
Jehan'ad G. Martinez	2015-2017
Cynthia V. Ecube	2013-2015
	2011-2013
	2009-2011
Rawlen M.T. Mantanona	2007-2009
Rodney J. Jacob	2005-2007
Joaquin C. Arriola, Jr.	2003-2005
	2001-2003
	1999-2001
	1997-1999
Robert Torres, Jr.	1994-1996
	1992-1994
	1990-1992
George Patrick Civile	1988-1990
William J. Blair	1986-1988
Ruth Hall	1984-1986
Lawrence Barusch	1982
Harry M. Boertzel	1978-1979
James S. Brooks	1974
Douglas F. Cushnie	1973
Howard Trapp	1965
Loretta Smith	1953

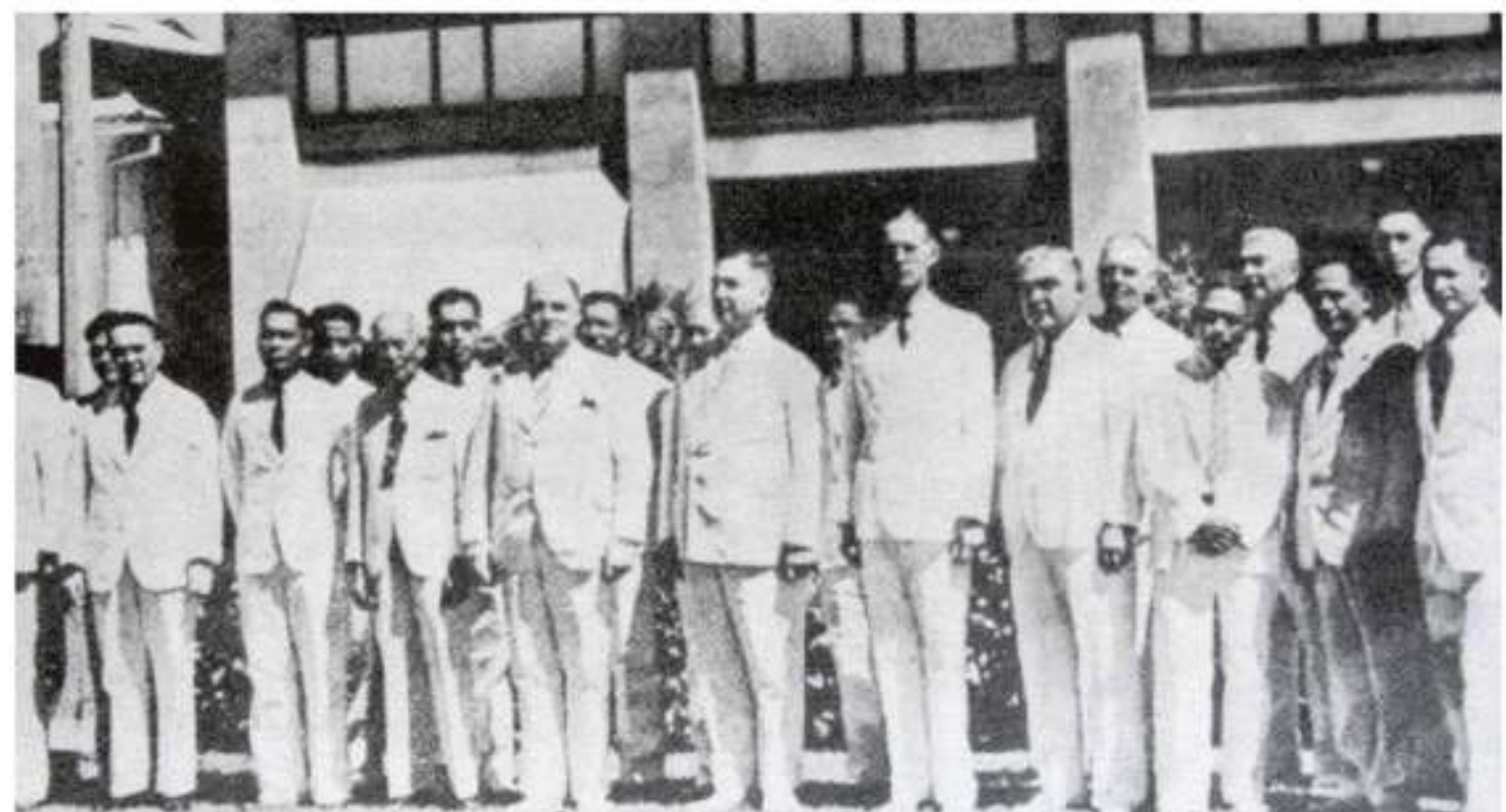
## ABA 2018 Law Day "Best Public Program" Award

Congratulations to the Guam Bar Association, the Judiciary of Guam, and the District Court of Guam, recipients of the American Bar Association's 2018 Law Day Outstanding Activity Award for Best Public Program!

The 11th anniversary of continued collaboration among the three organizations to engage and promote an understanding of the legal system in Guam. Law Day occurs as a month-long celebration in Guam where legal professionals actively partake in events including the Law Day Fair, *Race Judicata* 5K run/walk, *Haggen Games* physical fitness team competition, student Mock Trials, and other forms of educational outreach designed to engage the island community.

This year, the District Court of Guam continued to innovate and launched several unique programs for the Law Day festivities including the *Jump for Justice* jump rope competition for elementary to high school student levels; the creation of a local, JUSTICE Guam Girl Scouts patch and *Justice Patch Program* in collaboration with Guam Girl Scouts; and a Sketch Artist Contest where participants were invited to attend certain court hearings and sketch any part of the hearing(s) for submission.

Through their combined efforts, the Guam Bar Association, the Judiciary of Guam, the District Court of Guam, and the Guam Law Week Committee continue to successfully celebrate the rule of law and help make the legal system accessible to our island community. The 2018 Law Day Outstanding Activity Award for Best Public Program will be presented to the three organizations on January 25, 2019 in Las Vegas, NV during the National Bar Meeting.



*US Naval Era - Judges & Island Attorneys*

# TERRITORIAL LAW ISSUES

On October 10, 2018, the Attorney General of Guam's legal team argued before a Ninth Circuit panel at the University of Hawaii that it is not unlawful to limit non-native residents from voting on the territory's future political ties with the United States. Erwin Chemerinsky, the current Dean of the UC Berkeley School of Law and author of more than 200 law review articles, joined GBA member and Special Assistant Attorney General Julian Aguon in defending the island's political status plebiscite. The District Court of Guam ruled the self-determination plebiscite, created by the Guam Legislature, was unconstitutional and race-based. Chemerinsky and Aguon disagree with the 2017 *Davis v Guam* ruling, stating instead that the Guam law is race-neutral and seeks only to provide a platform for colonized people to express their views regarding decolonization.

An audio recording of the hearing is posted on the US Courts for the Ninth Circuit website at

<https://www.ca9.uscourts.gov/media/>.

# In the News

Two lawsuits were filed on December 6, 2018, against the Social Security Administration challenging the U.S. government's policy of refusing to provide Supplemental Security Income (SSI) disability benefits to American citizens living on Guam. The lawsuits were filed on behalf of twin sisters Katrina Schaller of Barrigada, Guam and Leslie Schaller of Greensburg, Pennsylvania. Both sisters who are now 48 years old live with myotonic dystrophy, a debilitating, degenerative genetic disorder that severely inhibits muscle function and other critical aspects of daily life. Although Leslie is able to live independently in Pennsylvania due to the essential aid she receives from SSI, Katrina is ineligible for the same SSI benefits received by her twin because she lives with her older sister and brother-in-law on Guam. Without SSI, Katrina's ability to live more independently and contribute to her own care and support is severely impacted.

The SSI statute limits eligible recipients to American citizens who reside "in the United States." But Congress defined "the United States" for SSI purposes as including the 50 states and only some additional American territory—namely the District of Columbia and the Commonwealth of the Northern Mariana Islands. Katrina is denied access to SSI on Guam, even though the American island rests fewer than 40 miles from the Northern Mariana Island of Rota. And, a special carveout in the SSI statute allows for certain noncitizens and their families on Guam to receive SSI, while Americans on Guam are totally denied.

"It is contrary to common sense, human decency, and sound public policy for the Social Security Administration to deny public benefits to Katrina Schaller and all other American citizens with disabilities living on Guam," said GBA Member Rodney Jacob, counsel for Katrina. Katrina Schaller is represented by Kirkland & Ellis LLP and Calvo Fisher & Jacob LLP. The lawsuit filed on Guam on behalf of Katrina alleges that the government's failure to allow American citizens on the island to access SSI denies her Equal Protection of the laws, which is guaranteed by both the U.S. Constitution and the Guam Organic Act—a federal statute passed by Congress and signed by President Harry Truman in 1950. The lawsuit filed in Pittsburgh on behalf of Leslie alleges that the government is violating her right to Equal Protection of the laws and her Constitutional Right to Travel within American territory, since Leslie risks losing her SSI benefits if she travels to Guam to visit or reside alongside her sisters.



## GBA BOARD ELECTIONS

The Board of Governors has sought a request for clarification of the 2017 Supervisory Order directing that the next regularly scheduled election should be held after the 2019 Annual Meeting. The Petition and Exhibit are available for review to all Members.

## ABA CONSULTATION RE PROFESSIONAL DISCIPLINE

The American Bar Association (ABA), Standing Committee on Professional Discipline will be arriving in Guam in January 2019. The GBA and the Judiciary of Guam are collaborating with the ABA who will be providing consultation services to promote and improve the attorney disciplinary system by examining the structure, operations and procedure of the system. All aspects of our disciplinary system from complaint, investigation, adjudication and appeal will be reviewed. The consultation will be completed with a full comprehensive report and recommendation to the Judiciary.

## Happy BILL OF RIGHTS DAY!

December 15th is celebrated nationally and annually as Bill of Rights Day. It commemorates the ratification of the first 10 amendments to the U.S. Constitution, which took place on December 15, 1791. This year marks 227 years since the ratification. In partnership with the District Court of Guam, the Guam Bar Association will host an open house at the District Court for students and the general public who wanted to learn more about The Bill Of Rights.

## 2019 MOCK TRIAL SEASON

The GBA requests its Members volunteer their time to act as mock trial team coaches or judges for the upcoming 2019 High School Mock Trial Competition season. The annual competition helps Guam high school students develop critical thinking and public speaking skills, while gaining knowledge of the legal practice and trial procedure. If you are interested in volunteering - and brushing up on your trial practice and evidence skills - please contact Edgar Dumlao at [info@guambar.org](mailto:info@guambar.org)

## 2019 GBA REGISTRATION INFORMATION

### Registration Deadline, CLE Credits and Contact Information

As a reminder, 2019 GBA membership registration forms and corresponding payment must be received by the Supreme Court of Guam on or before January 1, 2019.

The CLE Reporting Certification for mandatory compliance in 2018 and Pro Bono Reporting Certification forms are due by January 31, 2019. Note that CLE hours required for 2018 must be completed by December 31, 2018 to receive credit. Please consult the CLE rules on the GBA website to ensure you have met your annual requirements. The GBA does not track its members CLE credit history. It is the responsibility of every attorney to remain current with their continuing legal education requirement, and notify the Supreme Court of Guam and the Guam Bar Association of any changes to their contact information. Registrations and other forms (to update your contract information, for example) can be found on the GBA website under Forms.

Requests for approval of CLEs must be submitted to the GBA CLE Committee via email with a timestamp no later than 4:59 p.m. on December 31, 2018. Submission of your request for CLE approval by this date/time will guarantee a decision regarding your approval request in time for the certification deadline on January 31, 2019. Please send CLE request forms and accompanying documents to Christine Tenorio, GBA CLE Committee Chairperson at [ctenorio@guamag.org](mailto:ctenorio@guamag.org). Upon receipt, you may attach the GBA approval to your CLE Reporting Certification form and submit to the Supreme Court of Guam.

## Community OUTREACH

The GBA has received positive feedback and appreciation from senior citizens who attended our Senior Law Clinics at the Sinajana Mayor's Office on November 15<sup>th</sup>, and Dededo Mayor's Office on December 5<sup>th</sup>. Our next informational workshop is scheduled for January 15, 2019 at the Tamuning Senior Center. The goal is to provide similar workshops at each of the 12 village senior centers in Guam. Attorneys who would like to participate and volunteer to present at an upcoming workshop should contact Edgar Dumlao at [info@guambar.org](mailto:info@guambar.org). The GBA extends its thanks to the Mayors Council of Guam for their continued support in providing a venue to present these workshops.

# Submitted Articles

## THE *Japanese* LEGAL SYSTEM

GBA Member and Doshisha Law School professor Colin P.A. Jones recently published *The Japanese Legal System* as part of the West Hornbook series. Written together with Frank Ravitch of Michigan State University College of Law, the book is the product of Colin's long work practicing in Japan and researching the nation's legal system. It provides an extensive overview of numerous practical aspects such as how evidentiary proceedings are conducted, the variety of legal professionals available for consultation and the different role the courts play in Japan. A copy of the book will be donated to the Guam Law Library.

You can find the book on sale online at Amazon using the keywords *The Japanese Legal System* (Hornbooks).



Founded in 2015, the Marianas Young Professionals (MYPros) mission is to help students improve their lives through higher education and support the professional workforce needs of the CNMI. With the growth of the non-profit organization, its need and methods have similarly evolved. To better help our students and to create a centralized fundraising model, MYPros merged with the Million Dollar Scholars (MDS); a program that assists CNMI scholars form cohorts, attending college together while receiving mentorship and support from home. The vertical alignment of missions allows MYPros to help students prepare for college, support them through college (retention), and bring them back to the island for transition into the workforce. The goal is to work together and end the cycle of poverty in the Marianas. MYPros works to build a community where the public-school system, government agencies, and private businesses collaborate to improve our island community. MYPros is always happy to make new friends and partnerships – especially with its neighboring island of Guam.

The organization began its disaster recovery initiative, United 4 Saipan, post super typhoon Yutu where it rallied over 300+ volunteers, raised over \$100K in 30 days, and was the immediate disaster relief organization providing food, water, shelter, and other relief items to displaced families in need. None of this would be possible without the generous support of our donors including the Sons of Saipan, the Guam Bar Association, and the P.D. Hemlani Foundation who answered our call with disaster relief supplies sent in a 40 ft container for families in need.

If you are interested in becoming a member, learning more about MYPros and its Million Dollar Scholars programs, or extending your support, please contact Gerard van Gils, MYPros Executive Director at [Exec.G@MYPros.com](mailto:Exec.G@MYPros.com) or visit [www.mypros.org](http://www.mypros.org)

## GBA MEMBERSHIP ID CARDS

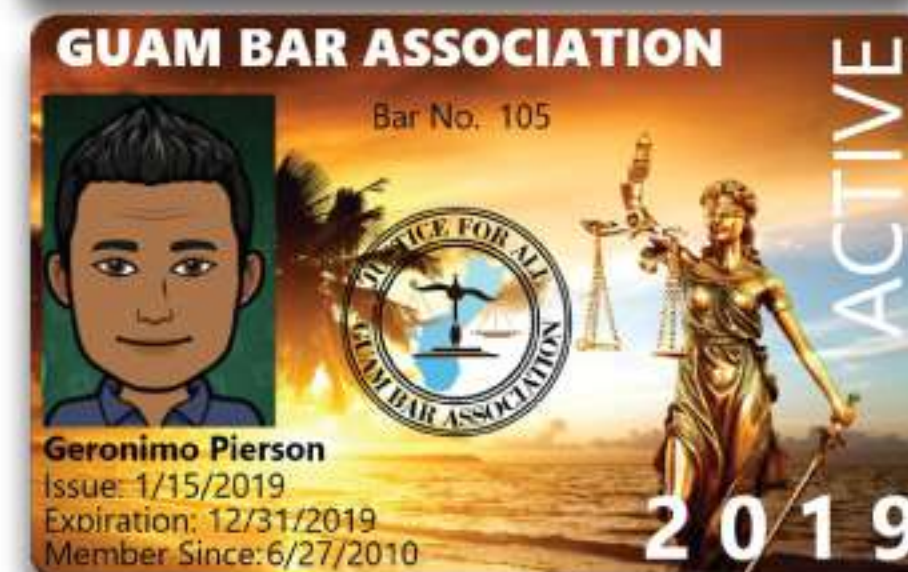
New for 2019: the GBA will be issuing membership ID cards. Members are invited to vote for their preferred design of membership ID cards at the 2018 Holiday Party.

The three options are below:

### Design # 1 Guam Island



### Design # 2 Lady Justice



### Design # 3 Retro (1947)



GBA members are requested to electronically submit a passport size and style photograph of themselves (JPEG, JPG, or PNG formats only) for their membership ID cards to [info@guambar.org](mailto:info@guambar.org) by January 31, 2019.



From (L to R)  
Edgar Dumlao, GBA Administrative Assistant • Jacquie Terlaje, GBA President • Elicia Santo Tomas, PDHF Operations Manager • Nola Hix, Marianas Young Professionals

# Events

## Super Typhoon Yutu Drive



From (L to R)  
Joe Terlaje • Jacque Terlaje, GBA President • Vashi Hemlani, PDHF President • Sam McPhetres, Sons of Saipan



Minakshi V. Hemlani, GBA Vice President, with volunteers from Sons of Saipan and the Agana Heights Mayor's Office



### SUPERTYPHOON YUTU




# RELIEF DRIVE

Our CNMI Family needs our Help!

**ALL DONATIONS MUST BE BOXED & LABELED PLEASE**

The P.D. Hemlani Foundation has generously donated the cost of a 40 ft. container to aid in the shipment of donations to the CNMI. Guam's Legal Community is actively collecting much needed supplies that will be loaded onto the container from November 1<sup>st</sup> through November 7<sup>th</sup>. Sons of Saipan is also collecting donations in Guam and will coordinate distribution to Saipan and Tinian families in need.

**REQUESTED DONATIONS:**

- Tarps, Tents, Cots, Sleeping Bags (Gently Used Ok)
- Toiletries
- Solar or Battery-Operated Flashlights and Fans
- Rope, Coolers
- Mosquito Nets, Coils, and Repellents
- Paper Products
- Solar-Powered Lamps / Lanterns
- Non-Perishable Food
- Butane Stove and Gas Canisters
- Other Items Welcome

**DROP-OFF LOCATION:**  
 GUAM BAR ASSOCIATION | 284 W. Chalan Santo Papa | Hagåtña  
 Contact PDHF 647-0389 or GBA 989-4227 for drop-off during business hours.







# Senior Law Clinic

SINAJANA

Thursday, November 15, 2018, 10:30 a.m. - 11:30 a.m.



THE GUAM BAR ASSOCIATION PRESENTS:

## Senior Law Clinic

An Informational Workshop on:  
Probates, Trusts, Wills & Deeds

*Know your Rights! Protect your Assets!*

THURSDAY | NOVEMBER 15, 2018 | 10:30-11:30 AM  
SINAJANA SENIOR CENTER  
(SINAJANA MAYOR'S OFFICE)

Guam Bar Association | 284 W. Chalan Santo Papa | Hagåtña | 96910  
989-4227 | info@guambar.org | www.guambar.org


Early in 2018, the GBA began working on plans to create a community outreach program geared towards providing informational workshops to our senior citizens about probates, trusts, wills and deeds. On November 15, 2018, the GBA launched its inaugural Senior Law Clinic at the Sinajana Senior Center in collaboration with the Mayors Council of Guam. The GBA extends special thanks to Sinajana Mayor Robert Hofmann and Agana Heights Mayor Paul McDonald for their support.



# Senior Law Clinic

DEDEDO

Wednesday, December 5, 2018, 11:30 a.m. - 12:30 p.m.



THE GUAM BAR ASSOCIATION PRESENTS:

## Senior Law Clinic

An Informational Workshop on:  
Probates, Trusts, POAs, Wills & Deeds

*Know your Rights! Protect your Assets!*

WEDNESDAY | DECEMBER 5, 2018 | 11:30-12:30 PM  
DEDEDO SENIOR CENTER  
(NEXT TO DEDEDO MAYOR'S OFFICE)

For Inquiries:  
Contact Edgar Dumlao at 989-4227 or  
Email us at [info@guambar.org](mailto:info@guambar.org)





# Events

## Constitution Day & Citizenship Day

On September 17, 1787, the Founding Fathers signed the U.S. Constitution.

For the past 231 years, the Constitution has served as the supreme law of the land. The Constitution, along with the Bill of Rights and other amendments, define our government and guarantee our rights.

Each year, on September 17, Americans celebrate Constitution Day and Citizenship Day. During this time, we encourage Americans to reflect on the rights and responsibilities of citizenship and what it means to be a U.S. citizen.

As part of the Guam Bar Association Board of Governors initiative to expand its presence in the community, we are proud to team up with the District Court of Guam and the Judiciary of Guam to commemorate Constitution Day and Citizenship Day with a photography contest.

Winners were awarded with prizes on Friday, September 21, 2018, at 4:00 p.m., at the Latte of Freedom, Adelup. All students in elementary, middle, and high school, and college students were eligible to participate, a total of 98 entries.



**Constitution Day & Citizenship Day PHOTOGRAPHY CONTEST**

Due to Typhoon Mangkhut and the aftermath of the storm, the deadline for this contest has been extended until noon on Friday, September 14, 2018.

On September 17, 1787, the Founding Fathers signed the U.S. Constitution. For the past 231 years, the Constitution has served as the supreme law of the land. The Constitution, along with the Bill of Rights and other amendments, define our government and guarantee our rights. Each year, on September 17, Americans celebrate Constitution Day and Citizenship Day. During this time, we encourage Americans to reflect on the rights and responsibilities of citizenship and what it means to be a U.S. citizen.

The Guam Bar Association, District Court of Guam, and Judiciary of Guam will commemorate Constitution Day and Citizenship Day with a photography contest. Winners will be awarded with prizes on Friday, September 21, 2018 at 4:00 p.m. at the Latte of Freedom, Adelup.

All students in elementary, middle, and high school, and college students are eligible to participate. Digital photo entries will be accepted beginning on Friday, August 26, 2018.

**Deadline to send photos is at noon on Friday, September 14, 2018. Email photos to: [contest@bar.org.gu](mailto:contest@bar.org.gu)**

Prizes will be awarded to winners of the contest. Prizes include cash awards and special recognition.

Check an image that appears on at least one of the Bill of Rights posters. Posters are available at the contest.

Include a caption to your photo. Do NOT exceed 30 words for your photo caption.

Please see the attachment for rules and regulations, and more information.

**Constitution Day and Citizenship Day**

1. **Best Photo**  
 Photo: A young boy looking at a framed photo.  
 School: Santa Rosa Middle School

2. **Best Caption**  
 Caption: "The American flag is the heart of our country."  
 School: Santa Rosa Middle School

3. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

4. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

5. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

6. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

7. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

8. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

9. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School

10. **Best Photo**  
 Photo: A close-up of an American flag.  
 School: Santa Rosa Middle School



### Keeping the Constitution in our hearts, minds



**WINNERS:** District Court of Guam Chief Judge Frances Tydingco-Gatewood, left, poses for a photo after announcing the winners of the elementary division of the 2018 Constitution Day & Citizenship Day Photo Contest during a ceremony Friday at the Latte of Freedom. The contest featured 97 entries, and winners received a combination of gift cards and certificates, cash awards and special recognition.  
 Norman M. Taruc/The Guam Daily Post



# Events

## Red Ribbon Campaign

For more than 30 years, the National Family Partnership has been instrumental in playing an active role in drug prevention.

In 1988, the NFP launched its inaugural National Red Ribbon Campaign to honor a fallen DEA agent by the name of Enrique "Kiki" Camarena, who was tragically murdered while attempting to battle the rise of illegal drugs in Mexico. This year marks the 30th anniversary of the Red Ribbon Campaign. The Guam Bar Association is proud to partner up with more than 40 other agencies on Guam to promote the National Red Ribbon Campaign for October 2018 by participating in several outreach events across the GDOE, DODEA and private schools.



The Red Ribbon Campaign<sup>®</sup> is the oldest and largest drug prevention program in the nation, reaching millions of young people during Red Ribbon Week<sup>®</sup> October 23rd - October 31st each year.

On Guam, we celebrate The Red Ribbon Campaign<sup>®</sup> during the entire month of October.

### WHAT IS RED RIBBON MONTH?

It is an ideal way for people and communities to unite and take a visible stand against drugs.

The Red Ribbon Campaign<sup>®</sup> was started when drug traffickers in Mexico City murdered DEA agent Kiki Camarena in 1985. This began the continuing tradition of displaying Red Ribbons as a symbol of intolerance towards the use of drugs. The mission of the Red Ribbon Campaign<sup>®</sup> is to present a unified and visible commitment towards the creation of a **DRUG - FREE AMERICA.**

# Synoptic Briefs

## Recent Supreme Court Opinions



### *People v. McKinney,* 2018 Guam 10

In affirming the denial of Defendant McKinney's motion to reduce his sentence, the Supreme Court found that McKinney's convictions do not violate the Double Jeopardy Clause. Under a narrow approach to double jeopardy sentencing issues, McKinney waived his right to challenge the sentence because his allegation of error hinged on a challenge to the underlying convictions, which he failed to raise in a prior appeal. Under a broader approach to double jeopardy sentencing issues, McKinney's appeal also failed because his convictions for burglary and theft of property do not constitute a continuing course of conduct and involved different property.



### *People v. Santos,* 2018 Guam 12

A Superior Court judge, who is related to the Chief Prosecutor in the Office of the Attorney General, certified the question of whether she must disqualify herself from criminal cases even in cases where her relative does not personally appear. The Supreme Court held that the trial judge is disqualified from presiding over criminal cases, due to the familial relationship, because a chief prosecutor has substantial supervisory and policy responsibilities in the criminal division. To continue presiding, the trial judge must first disqualify herself and then obtain the express agreement of the parties. The judge cannot rely on the parties' failure to object.



### *People v. Messier,* 2018 Guam 11

The Supreme Court reversed Defendant Messier's convictions for criminal sexual conduct and child abuse because the prosecution violated Messier's Fifth Amendment right against self-incrimination. The prosecutor improperly asked the jury what motive the alleged victims had to lie. Because Messier was the only individual who could refute the victims' testimony, being the only other person alleged to be present at the incident, the comments drew the jury's attention to the defendant's failure to testify.



### *People v. Nathan,* 2018 Guam 13

Defendant Nathan requested the Supreme Court vacate his attempted murder conviction on the theory that it merged with his conviction for aggravated assault. The Supreme Court found that the crimes merged, but determined, contrary to Nathan's position, that the aggravated assault conviction was the included offense. Additionally, insufficient evidence existed on the record to require the trial court to sua sponte provide a jury instruction on intoxication, and the record was not sufficiently developed to determine Nathan's ineffective assistance of counsel claim.



### *People v. Pugh,* 2018 Guam 14

On rehearing, the Supreme Court vacated Pugh's convictions for gun-related offenses because the trial court improperly allowed the People to present evidence that suggested Pugh committed an uncharged burglary. Admission of the uncharged burglary evidence violated Guam Rule of Evidence 403. The court also found that the People waived harmless error review by failing to raise the issue in their principal briefing.



## *In re Guardianship of Moylan,* 2018 Guam 15

In an appeal brought by the son of a ward, the Supreme Court affirmed the trial court's denial of the son's motion for visitation and motion to compel discovery related to quarterly reports. The Supreme Court concluded that the son was not completely denied visitation, but instead the trial court properly exercised its discretion in allowing the limited guardian of the ward's person to determine visitation conditions. The court also held that, while the son's appeal of the motion to compel was ripe, the trial court's determination that the motion to compel did not articulate what was deficient in the quarterly reporting was not an abuse of discretion.



## *People v. Callahan,* 2018 Guam 17

When he was 16 years old, Defendant Callahan allegedly committed acts of criminal sexual conduct against minors, for which a jury convicted him and a judge sentenced him to 30 years of imprisonment. While the victims were testifying at trial, Callahan was removed from counsel's table and screened in the corner of the courtroom out of view of the victims and the jury because the Superior Court failed to make the proper arrangements for testimony via close-circuit television. The Supreme Court held that the trial court erred in not holding an evidentiary hearing prior to granting a motion to screen the child witnesses. It also held that the screening method employed by the trial court constituted structural error because the procedure, which was in direct conflict with U.S. Supreme Court precedent, required removing the defendant from counsel's table. The Supreme Court also found that Callahan made a sufficient showing to be entitled to public funds for an expert witness and the Superior Court's failure to order such funds prejudiced his rights to effective assistance of counsel.



## *People v. Cox,* 2018 Guam 16

Defendant Cox sought reversal of several convictions of vehicular homicide and driving under the influence of alcohol stemming from an incident, which resulted in the death of his girlfriend. The Supreme Court reversed several of Cox's convictions because the trial court used an impermissible, mandatory presumption when it instructed the jury that if defendant's blood alcohol content was above a certain level, it shall be presumed that the defendant was under the influence of alcohol. This presumption ran afoul of due process and constituted plain error. The Supreme Court, however, found that the trial court was not required to sua sponte provide a self-defense instruction when the Cox's theory at trial was that he did not commit the crime. On this basis, the Supreme Court affirmed Cox's convictions that were unaffected by the presumption.



## *Port Transp., Stevedore, & Terminal Emps. v. Guam Civil Serv. Comm'n,* 2018 Guam 18

Employees working at the Port Authority of Guam appealed the denial of a grievance they filed in the Civil Service Commission regarding overtime compensation. The employees argued that they should have been paid overtime for work in excess of both 8 hours per day and 40 hours per week based on a 1988 Payroll Policy. Finding in favor of the Port Authority, the Supreme Court found that the payroll policy had been superseded by the 2009 Personnel Rules and Regulations, which limited overtime to work in excess of 40 hours per administrative workweek. The Supreme Court also found that untimely filed exhibits were not improperly excluded by the CSC, and certain erroneously incorporated findings and recommendations contained in the CSC's written decision did not make it facially defective.