


IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU

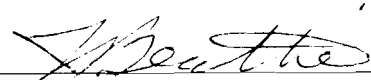
_____)
IN RE SMALL CLAIMS RULES) ORDER
_____)

These Small Claims Rules are promulgated by the Supreme Court of the Republic of Palau pursuant to Article X, Section 14 of the Constitution and 4 PNC § 101. They apply to all small claims actions filed on or after June 2, 1999, and, as far as practicable, to all small claims actions then pending.

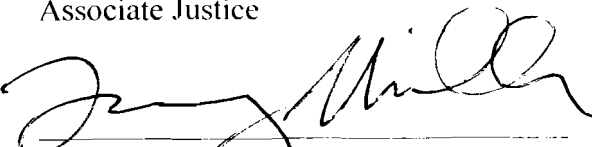
Dated: June 2, 1999



Arthur Ngiraklsong.
Chief Justice



Jeffrey L. Beattie.
Associate Justice



Larry W. Miller.
Associate Justice

R. Barrie Michelsen.
Associate Justice

SMALL CLAIMS RULES

Applicable to all small claims actions commenced on or after June 2, 1999, and, as far as practicable, to all small claims actions then pending.

Promulgated by the Palau Supreme Court
June 2, 1999

1. SCOPE OF RULES These rules apply to all small claims actions brought in the Court of Common Pleas. "Small claims" means any action for the recovery of money damages not exceeding three thousand dollars (\$3,000.00), exclusive of interest and costs.
2. DEFINITION OF TERMS "Plaintiff" means the person who files the small claims action. "Defendant" means the person against whom the claim has been filed. "Party" means the plaintiff or the defendant. "Judgment creditor" means the party who has been awarded a money judgment. "Judgment debtor" means the party against whom a money judgment has been awarded. "Clerk" means the Clerk of Courts of the Supreme Court.
3. STARTING A SMALL CLAIMS ACTION Any person may start a small claims action by filing an original and two copies of a small claims complaint with the clerk. If there is more than one defendant, the plaintiff must provide an additional copy of the complaint for each additional defendant. The complaint may be made on the small claims "Complaint" form available from the clerk. After the documents are filed, the clerk will keep the original copy for its records, serve a copy on each of the defendants, along with a summons, and return a copy to the plaintiff.
4. SUMMONS AND SERVICE The clerk shall deliver a copy of the complaint and summons to the Marshal's Division to be personally served on each defendant in the action. After serving each defendant, the Marshal's Division shall file a proof of service, including the date of such service, with the clerk. If the defendant is not a resident of Palau, the clerk shall serve defendant by certified mail, return receipt requested.
5. COUNTERCLAIMS The defendant may file a counterclaim, within fifteen (15) days after the complaint is served, against the plaintiff in the Court of Common Pleas for money damages not exceeding three thousand dollars (\$3,000.00). The counterclaim may be made on the small claims "Counterclaim" form available from the clerk. Small Claims Rules 3 and 4 govern the filing and service of counterclaims. Any counterclaim in excess of \$3,000.00 shall be filed in the Trial Division of the Supreme Court. Either party may then move in the Trial Division for consolidation of the two cases.
6. PLEADINGS No pleadings other than complaints and counterclaims shall be permitted.
7. COSTS The cost of filing a small claims complaint or counterclaim is fifteen dollars (\$15.00) plus five dollars (\$5.00) for each summons.
8. COURT RECORDS The clerk shall maintain a separate docket for small claims actions. The docket shall include: the title of every action; the date each summons was issued; the hearing date; every adjournment, stating on whose application and the new date set; the date the case is heard; the date of the judgment; the date and amount of any money paid to the court; and the date of the notice of appeal, if filed.

9. DATE OF HEARING When issuing a summons, the clerk shall note upon it the date of the hearing, which shall be no less than thirty days and no more than sixty days from the date the complaint is filed.

10. REPRESENTATIVES The court may permit, upon the request of a party, a representative other than an attorney or trial counselor to appear with or on behalf of the party when the court finds that it is in the interests of justice, due to the party's age, lack of language proficiency, inability to present his or her own case, mental or physical incapacity, or other disability. The representative may not charge a fee or accept any form of remuneration for his or her services.

11. INFORMAL HEARING, WITNESSES, DOCUMENTARY EVIDENCE The hearing and disposition of small claims actions shall be informal, the object being to dispense substantial justice promptly and inexpensively. The court shall not be bound by the ROP Rules of Civil Procedure or the ROP Rules of Evidence. The parties shall have the right to offer evidence by witnesses or documentation. An oath or affirmation shall be administered to all witnesses testifying at the hearing. Any party may present written contracts, receipts, letters, or other documentary evidence at the hearing. The party presenting such evidence shall provide copies for the court and the opposing party or parties.

12. FAILURE TO APPEAR AT HEARING In the absence of a counterclaim, if the plaintiff fails to appear at the hearing, the court shall enter a judgment for the defendant. If the defendant fails to appear, the court may enter judgment for plaintiff, or may require plaintiff to present evidence to prove his or her claim, and if such evidence is provided, the court shall enter judgment for the plaintiff. If the defendant has filed a counterclaim, and if the plaintiff fails to appear at the hearing, the court may enter judgment for the defendant on the counterclaim, or may require the defendant to present evidence to prove his or her claim, and if such evidence is provided, the court shall enter judgment for the defendant. If the defendant fails to appear, the court shall enter judgment for the plaintiff on the counterclaim.

13. SETTLEMENTS The parties may settle their case at any time prior to judgment. The settlement may be made on the small claims "Settlement" form available from the clerk. The court shall enter judgment in accordance therewith. The court may consult with the parties at any time for the purpose of reaching a compromise.

14. JUDGMENT; RECOVERY OF COSTS AND INTEREST The court shall enter judgment within twenty days of the hearing. The court shall order the judgment satisfied by delivery of payment to the clerk or to the prevailing party, either in a lump sum or in installments. In appropriate cases, the court may award the prevailing party the costs of the action, and/or interest accruing on the amount owing since the date the obligation was incurred. The judgment shall include a warning that the debtor's failure to pay the judgment may result in execution against his or her wages and property, and that the debtor may be compelled to appear for an examination of his

or her assets. The clerk shall serve the judgment by placing a copy in the attorney mailbox of any represented party, or by delivering a copy to the Bureau of Public Safety to be personally served on each unrepresented party. After serving each unrepresented party, the Public Safety officer shall file a proof of service, including the date the judgment was served, with the clerk. If the unrepresented party is not a resident of Palau, the clerk shall serve the judgment by certified mail, return receipt requested.

15. FAILURE TO PAY JUDGMENT Whenever a judgment has remained unpaid for thirty days after its service, or whenever a judgment is to be paid in installments and any installment has not been paid on time, the judgment creditor may seek a writ of execution and/or an order in aid of judgment against the judgment debtor, and the court may hold the judgment debtor in contempt for failure to comply with any such writ or order. The cost of serving any writ of execution shall be borne by the judgment debtor.

16. EXAMINATION OF ASSETS In connection with an order in aid of judgment, the judgment debtor may be compelled to appear for an examination of his or her assets. Such examination may include an inquiry into the debtor's salary, wages, and other income, personal and real property, accounts in banks, and any other assets.

17. REFERRAL The court may, at its discretion, request the Chief Justice to refer any action, or any issue within an action, to a justice of the Trial Division for resolution. If the justice decides less than all of the issues in the action, the matter shall be remanded to the Court of Common Pleas for further disposition.

18. APPEAL Either party may appeal the judgment to the Appellate Division of the Supreme Court by filing a notice of appeal within thirty (30) days of service of the judgment. The appeal shall be governed by the ROP Rules of Appellate Procedure.

19. TITLE These rules may be cited as the ROP Small Claims Rules. (ROP Small Claims R. _____).

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