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Marianas

Guam Judiciary, 28 U.S.C. Sections 1424 et seq.

Section 1424 creates "a court of record to be designated the 'District Court of Guam'". That section further provides that "the judicial authority of Guam shall be vested in the District Court of Guam" and in such court or courts as may have been or may hereafter be established by the laws of Guam. The jurisdiction of the District Court of Guam extends to "all causes arising under the Constitution, treaties, and laws of the United States regardless of the sum or value of matter in controversy." This section further provides that jurisdiction over such causes shall be "the jurisdiction of a District Court of the United States". In addition, this section provides that the District Court of Guam "shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been transferred by the legislature to other court or courts established by it." With respect to appellate jurisdiction the section provides that the District Court of Guam "shall have such appellate jurisdiction as the legislature may determine." The section also provides that "the jurisdiction of and the procedure in the courts of Guam other than the District Court of Guam shall be prescribed by the laws of Guam."

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Section 1424(a) advises special procedure for appeals in the District Court of Guam. Such appeals "shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum." The presiding judge of the appellate division is the judge appointed for the court by the President. The other judges of the appellate division at any session are designated by the presiding judges selected from among the judges assigned to the court from time to time pursuant to Section 1424(b) (a). Concurrence of two judges is required for decision by the District Court of Guam on the merits of an appeal. The presiding judge alone may make any appropriate orders with respect to an appeal prior to hearing and determination thereof on the merits, including dismissal of an appeal for want of jurisdiction or failure of prosecution.

Section 1424(b) provides that the rules of procedure promulgated by the Supreme Court pursuant to Sections 2072 (civil cases), 2073 (admiralty cases), 3771 and 3772 (criminal cases) of Title 28 and Section 53 (bankruptcy cases) of Title 11 apply to the District Court of Guam and to appeals therefrom. There are certain exceptions, specifically, "provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information. . ." Such provisions are not applicable

to the District Court of Guam unless they are made applicable by laws enacted by the Legislature of Guam. Finally, this section provides that the terms "attorney for the government" and "United States attorney" shall, when applicable to cases arising under the laws of Guam, mean the "attorney general of Guam or such other person or persons as may be authorized by the laws of Guam to act therein." [For a legislative history of Pub. L. 85-444 (1958 amendment to Section A with respect to value of matter in controversy and appeals (see 1958 U.S. Code Cong. and Admin. News, p. 2623))].

[Decisions: (1) Putty v. U.S., 220 F.2d 473, cert. denied, 350 U.S. 821 (Ca. Guam 1955), holding amendment with respect to right to indictment invalid insofar as it relates to prosecution initiated before amendment is an ex post facto law is invalid. (2) Brandt v. U.S., 110 F.Supp. 627 (D.C. Guam 1953). Guam court has jurisdiction under Federal Tort Claims Act, 28 U.S.C. Section 1346, 2671 et seq. (3) Constitution does not require jury trial in actions of the District Court of Guam. Dairy Products, Inc. v. Siciliano, 235 F.2d 74 (Ca. Guam 1966). Note: If Sixth Amendment is made applicable to Marianas, then right to trial by jury apparently would apply to District Court of Marianas. See Hatchet v. Government of Guam, 213 F.2d 767, cert. dismissed 348 U.S. 801 (Ca. Guam 1954). (4) Appellate jurisdiction of appellate division of District Court of Guam extends only to

appeals from Island Court of Guam. In re Webster, 363 F.2d 837 (Ca. Guam 1966). (5) District Court of Guam has jurisdiction under territorial income tax law. Forbes v. Maddox, 339 F.2d 387 (Ca. Guam 1964). (5) Jurisdiction generally. Pugh v. U.S., 212 F.2d 761 (Ca. Guam 1954). Pedersen v. U.S., 191 F.Supp. 95 (D.C. Guam 1961). (6) Jurisdiction of appellate division. Eiban v. Government of Guam, 115 F.Supp. 519 (D.C. Guam 1953) (7) Authority of Congress. U.S. v. Sakamoto, 145 F.Supp. 90 (D.C. Guam 1956). (8) Standard of review on appeal of decision on purely local matter, "unless there is no tenable theory on which decision can be based." Ins. & Sur. Co. v. Globe Indem. Co., 382 F.2d 623 (Ca. Guam 1967). FRCP Rule 42 (Dlan v. People of Territory of Guam, 394 F.2d 293 (Ca. Guam 1968).]

Section 1424(b) compensation of the judge of the District Court of Guam. Section 1424(b) (a) provides that a judge for the District Court of Guam shall be appointed by the President with advice and consent of the Senate for a term of eight years. The judge may be removed sooner by the President for cause. Salary is equal to the rate prescribed for judges of the United States District Courts. Additional judges may be assigned to the District Court of Guam "whenever it is made to appear that such an assignment is necessary for the proper dispatch of business of the court." Such assignments may be

made by the Chief Judge of the Ninth Circuit with respect to certain judges or by the Chief Judge of the United States with respect to any other United States Circuit or District Judge.

Section 1424(b) (b) provides for the appointment of United States attorney and United States marshall for Guam by the President with the advice and consent of the Senate. Chapters 31 and 33 of Title 28 apply to such offices.

Section 1424(b) (c) provides that Chapters 43 and 49 of Title 28 apply to the District Court of Guam.

Appeals from the District Court of Guam to the Ninth Circuit and to the Supreme Court are covered by 28 U.S.C. Sections 41, 1252, 1291, 1292 and 1294. [Note: Section 1421(b) (u) provides that certain amendments to the Constitution are extended to Guam including the First and Ninth Amendment inclusive. Compare with no right to jury trial or indictment in District Court of Guam.]