

On My Mind
8/29/03

What is it that makes people in the CNMI so litigious? Is it because the CNMI seems to have more practicing attorneys per capita than any other place in the world? And that, consequently, there's always at least one attorney who's readily available regardless of the nature of the complaint?

Take, for example, the decision by the CNMI government itself, to appeal the recent District Court decision rejecting the CNMI's claims to submerged lands. It is clear from the decision that (a) the CNMI itself was aware at the time its constitution was written, if not before, that it could not gain claim to its submerged lands without an act of the U.S. Congress, and (b) that the consensus among authorities and experts on both sides seems to be that the U.S. Congress would look favorably on a request by the CNMI for the same degree of control of submerged lands that it has granted to the states.

So what's the point in going back to court again? Why not accept Cohen's support and work through his office, through the existing 902 process, and through the office of the Washington Rep, for passage of a federal law giving the CNMI the same right that the states and territories have? Does anyone really think that - the Covenant notwithstanding - in the present climate of U.S. security concerns the U.S. will cede more authority or control over submerged lands to the CNMI than it has given to other states and territories?

Then there's the continuing embarrassing spectacle of Ricardo Atalig's ludicrous efforts to by-pass and circumvent the law. In order to obtain not only another hearing as to his guilt, but also all kinds of concessions regarding his incarceration, not the least of which is the request that he be able to serve his sentence on island, he has filed - through his attorney - a veritable flurry of motions.

It's hard to imagine what Atalig hopes to accomplish as a result of his all his shenanigans. Certainly, his actions do not earn any respect, or admiration, or sympathy. On the contrary, the way he's still wriggling to try get off the hook - even though the hook is quite securely set - can only bring more embarrassment, disgrace, dishonor to himself, his family, and indeed, to all the rest of us. There's certainly not a shred of dignity in evidence on his part.

And to what purpose? Depending on the terms of the agreement between him and his attorney, his attorney may reap some benefits. Atalig himself will not. And as for the prosecuting attorney, there's little doubt he has far more pressing claims on his time.

Of course, all this litigiousness keeps the lawyers happy. And their clients poorer.

Arbitration doesn't cost nearly as much - nor take as long.

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Is there a point at which an attorney should stop doing as his client wishes, and instead allow common sense, or logic, or just plain reasonableness, to dictate his actions? The question has been raised, in perhaps a different form, in the debate over the nomination of Pamela Brown as CNMI Attorney General, but it also applies in the case of Steve Woodruff's defense of Ricardo Atalig.

One has to admire Woodruff's dogged attempts to rescue Atalig from the dilemma Atalig has created for himself, not only through his initial incriminating acts, but also through his more recent acts of defiance and crudeness. It must require a major leap of faith for either Woodruff - or his client - to believe that the court would be willing to ignore those acts as it makes its decisions on Woodruff's endless motions. Yes, the court must be objective, but there's also leeway for leniency under certain circumstances - of which this, thanks to Atalig's recalcitrance - is not one.

But is it good law? Isn't it about time Woodruff told his client that he'd fare a lot better if he showed a little remorse, a little humility, some dignity? About time he stood on his own dignity, and said, "enough is enough"? Wouldn't the law be better off if more attorneys did that?

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According to media reports, much-maligned Joaquin Borja may not have a formal AA degree, but he does have 3 and 1/2 years of college. Since an AA degree can be obtained in two years, that means that Borja has nearly double the educational credentials that are required for appointment to the CUC Board.

Yet in all the brouha about whether or not Borja is entitled to sit on the CUC Board, there has been no mention of this seemingly conclusive evidence. Granted, Borja has not been awarded an AA degree as such, and therefore may not technically be eligible to sit on the Board. However, common sense makes it clear that Borja not only is qualified, but indeed, is perhaps over-qualified, since he has so much more than what is required of an AA degree holder.

Are the rules really so rigid that Borja's educational credentials can't be recognized?

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The picture on the front page of Tuesday's <I>Tribune</I> - of a group of Fujian businessmen on island for an "investment exploratory tour" - made me distinctly uneasy. Much effort is being expended to sell the CNMI to foreign investors, and that, of course, is all to the good. The CNMI desperately needs something to cure its ailing economy, and foreign investment seems as good a solution as any.

To the government's credit, it is, at the same time, working to make foreign investment easier and more attractive. That is, the government is spending money to lure foreign investors to the CNMI, but it is also spending energy on improving the climate for foreign investment. (The Marianas Visitor's Authority should take lessons. MVA spends its money trying to sell the

CNMI but without making any discernible effort to make the CNMI itself more attractive.)

But what seems to be missing is any awareness that not all foreign investors are equally desirable. The recently released report about the extent of criminal activity in the CNMI notes that "individuals belonging to 'Chinese Triad gangs, Russian Mafia and Korean Mafia organizations' each participate 'to some degree in the criminal activities in the Northern Marianas.'" How does the CNMI plan to make sure that investors from those countries that it is encouraging to invest in the CNMI are not involved in such criminal activities?

For example, the Chinese province of Fujian, as I recall, is the same province from which that rash of boat people the CNMI suffered not so long ago, came from. If conditions were so bad that so many people risked their lives and their money to escape that province, shouldn't the CNMI be more than a little cautious in soliciting foreign investment from Fujian, of all places? That may sound racist, but it is not. It is merely being prudent.

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The damage to the lagoon from this past Tuesday's rain storm gives ample proof of how much work is needed in the control of storm water run-off if the CNMI wants to restore the lagoon to its former clarity and beauty. The flooded roads were hazard enough - but the widespread browning of the lagoon inflicted far more long-term damage to the coral habitat that defines its health. There's a project for the MVA: contribute to the improvement of storm water run-off control!