

MEMORANDUM OF POINTS AND AUTHORITIES

Appellant Harbor Center Guam respectfully requests a continuance of one month pursuant to 5 G.C.A. § 9223, which states that an agency may grant continuances at any stage of the proceedings. Appellant requires testimony from material witness, Claudia Acfalle, who is currently off island on a personal matter. Appellant's legal counsel has not been able to contact this material witness via telephone since this appeal was initiated. Her employer, General Services Agency, is unable to confirm whether she will return to Guam by the hearing date currently set for October 18, 2010. Claudia Acfalle has been uncooperative with Appellant's counsel and she sent emails stating that she does not know when she will return to Guam, she is unable to provide a phone number, and she has not indicated where she is currently located. See attached Exhibit "A."

Claudia Acfalle is Appellant's main witness and Appellant is unable to proceed with this appeal without her testimony. Since Claudia Acfalle is being uncooperative, Appellant requests that the Office of Public Accountability grant a one month continuance for the Hearing currently set for October 18, 2010 at 9:00 AM pursuant to 5 G.C.A. § 9223, in order to allow Appellant to subpoena material witness Claudia Acfalle.

Additionally, Appellant intends to depose several other material witnesses, namely the Port Authority of Guam employees who independently evaluated the various proposals in this appeal, and Alma Javier, Chief Procurement Officer of Port Authority of Guam. In addition to Claudia Acfalle and Alma Javier, the individuals on the evaluation committee that need to be deposed and subpoenaed include: John B. Santos, Operations Manager; Ernie Candoleta, Maintenance Manager; Joaquin Pangelinan, Equipment Support Services

Manager; Ray B. Santos, Transportation Superintendent; Francine T. Rocio, Personnel Services Administrator; Sooja L. Suk, Systems Manager; Glenn B. Nelson, Commercial Manager; Jovyna Lujan, Board Member; Bill Berry, Board Member; Dora Jean Perez, Planner IV, Alternate Evaluator.

The depositions and testimony of Claudia Acfalle, Alma Javier and the ten members of the evaluation committee are essential to Appellant's appeal. Appellant needs additional time to depose the witnesses, conduct additional discovery, and to subpoena the witnesses for the hearing. Accordingly, Appellant respectfully requests that the Office of Public Accountability grant a one month continuance for the October 18, 2010 hearing date pursuant to 5 G.C.A. § 9223.

Respectfully submitted this 4 day of October, 2010.

CABOT MANTANONA LLP
Attorneys for Harbor Center Guam

By:



SARAH STROCK

Marie Evaristo

From: Sarah Strock [ss@cmlaw.us]
Sent: Monday, October 04, 2010 11:55 AM
To: me@cmlaw.us
Subject: Fw: Return to Guam

Can you print this out for me?

----- Original Message -----

From: Rawlen Mantanona
To: 'Sarah A. Strock'
Sent: Monday, October 04, 2010 11:06 AM
Subject: FW: Return to Guam

From: Claudia Acfalle [mailto:claudia.acfalle@gsa.guam.gov]
Sent: Saturday, October 02, 2010 4:50 AM
To: Rawlen Mantanona
Subject: Re: Return to Guam

At this time, I do not have a telephone number to give you. The cell phone I have does not have service where my daughter lives. As I mentioned to you earlier I do not know when I will be returning at this time. All I can do is try to get to a phone and call you. I normally go to the nearest gas station down the street to use the phone. Sorry!

Claudia

On Fri, Oct 1, 2010 at 9:49 AM, Rawlen Mantanona <rm@cmlaw.us> wrote:

Claudia,

I understand that you are on a family emergency. I understand if you do not have a definite return date but the parties want you to testify at the hearing. I would prefer your live testimony but if forced to the testimony will be telephonic. Telephonic testimony doesn't have the same effect on those listening to the testimony, as live testimony. Can you please advise generally when you think you may be returning. Secondly, can you disclose your location and contact telephone number. I would like to talk with you in regards to your testimony, as soon as possible, as trial is in two weeks.

Best Regards

Rawlen

From: Claudia Acfalle [mailto:claudia.acfalle@gsa.guam.gov]
Sent: Friday, October 01, 2010 3:38 AM
To: Rawlen Mantanona
Subject: Re: Return to Guam

Hi Rawlen:

I am not sure of my return date at this time.

Claudia

On Thu, Sep 30, 2010 at 11:43 AM, Rawlen Mantanona <rm@cmlaw.us> wrote:

Dear Claudia,

I have not received a response in regards to my inquiry as to your return. Please respond or notify me as to your return. I tried to get a continuance of the trial but Anthony Camacho set the trial date for October 15, 2010. I need to know your availability.

Best Regards

Rawlen