The United Nations officially came into existence on October 24, 1945, in the aftermath of World War II and out of what was formerly the League of Nations. The United Nation’s signed charter made clear that the United Nations’ primary purpose was to promote international peace and to prevent international conflict. But another purpose of the organization was to enable colonies – both former and then-current – to become self-governing and autonomous.

Chapter XII of the United Nations Charter established and defined the International Trusteeship System under which colonies would be guided toward autonomy. Article 76 provides that the purposes of the trusteeship system were:

a. to further international peace and security;

b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing and subject to the provisions of Article 80.

Article 77 of the United Nations Charter made the trusteeship system applicable to:

a. territories not held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

There were eleven territories placed under trusteeship after the war. All of these are now either fully independent or are in voluntary association with other countries (the last territory still under trusteeship – Palau – became independent in 1994). These territories – the Cameroons, Nauru, New Guinea, Pacific Islands,
Ruanda-Urundi, Somalia, Tanganyika, Togoland, and Western Samoa – were spread throughout Africa and the Pacific.

The Trust Territory of the Pacific Islands – known as the TTPI – consisted of the many thousands of Pacific islands, including the Northern Marianas, which had been under Japan’s control until the end of World War II. The TTPI was placed under the administration of the United States with a Trusteeship Agreement that was approved by the United Nations Security Council on April 2, 1947, and ratified by the United States on July 18, 1947. The Trusteeship Agreement designated the United States as the TTPI’s administering authority, and set out the United States’ duties and rights toward the islands – including the full powers of administration, legislation, and jurisdiction.

As is discussed in this chapter, the legal and judicial system the United States established in the Trust Territory formed the basis of the legal and judicial system which exists today in the Northern Mariana Islands.

The Administration of the TTPI

The TTPI was, at various times, placed under the authority of the Department of the Interior and the Department of the Navy. The Department of the Navy had, of course, been administering what would become the TTPI since the United States ousted Japan in 1944, but the Department of the Interior was seen as a more “pacific” administrator of the TTPI. Jurisdiction was transferred between these two departments for the TTPI’s first eighteen years, and jurisdiction over the TTPI was finally vested with the Department of the Interior for the TTPI’s duration in 1962.

The TTPI was divided into six districts – the Marshalls, Pohnpei (including Kosrae), Truk, Yap, Palau, and the Marianas – each with its own legislature. The primary responsibility for overall administration of the TTPI was vested in a High Commissioner who was appointed by the President of the United States and confirmed by the U.S. Senate. The “High Comm.,” as he was commonly called, had a deputy high commissioner, an executive officer, an attorney general, a disaster control officer, a program and budget officer and several special assistants. The High Commissioner also worked with eight directors of various departments, such as Education, Finance, Personnel, Public Works and Health Services. In addition to the members of his office, the High Commissioner was assisted in the administration of the TTPI by six district administrators.

The legislative power of the TTPI was essentially vested in the Congress of Micronesia which was patterned after the U.S. Congress in that it was a bicameral body with a Senate and House of Representatives. The Senate consisted of two senators from each district, for a total of twelve members, who were elected for four year terms. The House consisted of twenty-one members elected for two year terms, and was composed of three members from each of the Marianas and Palau districts. The Marshalls and Ponape each had four members, Truk had five members, and Yap had only two members in the House.

The judiciary in the TTPI was organized into a High Court (with appellate and trial divisions), district courts, and community courts. The justices of the High Court consisted of a chief justice and three to four associate justices, as well as four temporary judges who were appointed by the Secretary of the Interior.

1 The laws enacted by the Congress of Micronesia could not preempt federal laws and treaties, nor could they preempt executive orders of the President of the United States or the Secretary of the Interior.
The full-time justices of the High Court were located in Saipan. The temporary judges were usually full-time judges from Guam. Several notable persons served as jurists on the TTPI High Court during its existence, including U.S. Supreme Court Justice Anthony M. Kennedy who served as a temporary member of the Court at one time.

Litigants could seek *certiorari* review of High Court appellate decisions by the Secretary of the Interior, but none did. There were no appeals from Trust Territory courts to “regular” United States courts. The Trust Territory judiciary was wholly separate from the United States judiciary.

The trial division of the High Court had general jurisdiction to try all civil and criminal cases, and it also had appellate review of the final decisions of the district courts. Each trial division judge would travel from district to district on a regular basis, though a judge who presided over a case at the trial level was disqualified from sitting as one of the three appellate justices if the case was appealed. In addition to reviewing the trial court decisions, when sitting as an appellate court the trial court could review, *by certiorari*, the decisions of the supreme courts of the Marshalls, Palau and the Federated States of Micronesia (FSM), until those jurisdictions finally became completely autonomous and were no longer part of the TTPI.

The district courts consisted of a presiding judge and one or more associate judges who were appointed by the High Commissioner. The district courts had concurrent original jurisdiction to hear civil cases where the amount in controversy did not exceed one thousand dollars. The district courts also heard cases involving...
criminal matters where the maximum penalty did not exceed a five thousand dollar fine or two years in jail, or both. These courts also had appellate review over the community courts.

Originally, there were 102 authorized community courts throughout the TTPI. There were thirty-eight community courts in Truk, twenty-five in the Marshalls, sixteen in Palau, ten in Ponape, ten in Yap, and only three in the Marianas. These courts had concurrent original jurisdiction to hear civil cases where the amount in controversy did not exceed one hundred dollars. The community courts also heard cases involving criminal matters where the maximum penalty did not exceed a one hundred dollar fine or six months in jail, or both.

The community court judges were appointed by the district administrators. The district and community courts handled local matters, often involving the interpretation of island customary law. In the early days of the TTPI judicial system the parties, in both criminal and civil cases, were often represented by trial assistants, local persons who had no formal legal education but had in most cases demonstrated an aptitude for the law or were more sophisticated or educated than the average island resident. During this time, even the judges of local courts were usually not law school graduates.

The district legislatures enacted laws providing for trial by jury in the Marshalls and the Marianas. The first jury trial held in the Marshalls was a civil case in 1970. In 1975, a criminal murder case was tried by jury in the Marianas district. Jury trials were only conducted by the trial division of the High Court.

Naturally, the number of judges and the number of cases under the High Court and other TTPI courts gradually declined as the various districts achieved
self-government and established their own independent judicial systems. The first district to transfer jurisdiction to their own local courts was the Marianas in 1976, though the transfer was limited at first. The United States District Court for the Northern Mariana Islands – a relic from the Trust Territory Judiciary – had original jurisdiction over some actions and appellate jurisdiction over appeals from the newly established Northern Marianas trial courts until the creation of the Supreme Court of the Northern Mariana Islands in 1989.

Legal Issues of Significance

In addition to administering justice, the TTPI High Court was also required to certify to the United States and the United Nations that, as the various districts became independent or self-governing, their judicial systems were independent and that the emerging courts had the facilities and staff to function as courts of record. The certification of these courts was largely accomplished during the last years of the High Court under the stewardship of then Chief Justice Alex R. Munson – who remained the Chief Justice until the Court ceased operations in October 1994. Alex Munson remained the Chief Judge of the U.S. District Court for the Northern Mariana Islands until he retired on February 28, 2010.2

In the case of the FSM, the High Court encountered some difficulty in accomplishing the task of overseeing courts to the United States’ and United Nations’ specifications. The Judicial Act of the FSM provided that one of the qualifications for judges be that they are “learned in the law.” The commonly accepted definition of that phrase is that the person is a graduate of a law school. That was a near-impossible standard for the time, when very few of the judges of that jurisdiction

Civilian Advisory (“CIVAD”) Legal Department. Saipan, 1950.

2 At the time of publication a new Chief Judge of the U.S. District Court for the Northern Mariana Islands had not been appointed.
had graduated from law school. The law was eventually changed to eliminate this requirement and the High Court was then able to make the necessary certification.

Land has always been an important issue for the islands of Micronesia – especially when one considers the scarcity of this resource as well as the impact that World War II had on the history of land titles in the region. One of the major issues was whether and how to compensate Pacific Islanders for land which was taken by Japan and which was now turned over to the U.S. administering authority. This was further complicated by the destruction of many land records during the tumultuous invasions of the various Pacific Islands.

The land issue was uniquely handled during the TTPI years. Despite the existence of the doctrine of prior wrongs, which provides that a successor nation is not responsible for the wrongs of a previous occupying nation, the United States waived or suspended its rights under this doctrine and compensated wartime residents for land taken in violation of due process prior to the start of its administration of the TTPI. During the course of litigation before the High Court, it was disclosed that the reason behind the U.S. decision to afford compensation was that a review of pre-WWII shipping records revealed that as early as twelve years before the start of hostilities, Japan was shipping concrete and other materials to the Japanese Mandated Islands in order to build fortifications and prepare for war. Therefore, the United States determined that there was a violation of the League of Nations mandate to develop the islands for peace and eventual self-government or independence, which required that Pacific Islanders be compensated for the land takings.

As a result of this decision, and as could have been predicted, there were numerous land war claims. Some were for land taken or destroyed by the United States during the war, but many more were for land taken or destroyed by Japan.
One of the functions of the High Court was to establish and maintain a Recorder’s Office and land commission officers to deal with land issues, such as title and claims for compensation for land taken by governments. The decisions of the land commission officers were appealable to the High Court – and are still being litigated today, in the contemporary Commonwealth courts.

The Written Law of the TTPI

TTPI law came from a variety of sources. There were federal laws and treaties applicable to the TTPI, and executive orders from the President of the United States and the Secretary of the Interior. There were also two volumes of codified law, commonly referred to as the Trust Territory Code.

A wide range of issues were covered in the Trust Territory Code. The Code was sufficiently comprehensive to regulate the daily interaction among TTPI citizens at the time of its enactment and for a significant time thereafter. The Code included provisions on local government, civil procedure, evidence, and eminent domain. Naturally, there were also provisions dealing with crimes, punishment and criminal procedure. More surprising perhaps to the reader unfamiliar with the region, is that the Code also dealt with more obscure issues such as admiralty and maritime, aliens and alien property, fish, shellfish and game and even securities and investments law.

The Code was also annotated with decisions of the Trust Territory High Court which were contained in the Trust Territory Reports. Only the first four volumes contained annotations. By the time the High Court heard its last case, there were eight volumes of this reporter.

The Code survived the creation of the independent entities that replaced the TTPI, and was the law for those new jurisdictions until they enacted their own laws. Even then, many of the new laws actually incorporated the Code’s provisions. For example, for many years after the creation of the Commonwealth the law of corporations in the CNMI was actually the corporations law contained in the Code.

Jose R. Cruz signing the Covenant on February 15, 1975.
and the regulations promulgated during the time of the TTPI.

Conclusion

To say that the Trust Territory of the Pacific Islands had a profound and lasting influence on the present-day entities that were once the districts of the TTPI would be a gross understatement. The structure of government that evolved in the new political entities was in large part patterned after the organization of the TTPI. Many of the departments that exist in the CNMI, for example, are the same as those that existed within the Office of the High Commissioner. The personnel also remained; many of the most prominent political leaders of the new political entities, individuals such as former Governor Pedro P. Tenorio, were persons who held positions under the TTPI administration.

It is not difficult to suggest that the lessons learned from the TTPI were used to shape the early development of the CNMI, Palau, the FSM, and the Marshalls. It is equally obvious that the TTPI period of regional history helped to shape the establishment of the American legal system in Micronesia.
Introduction

The present Commonwealth Judiciary developed over several distinct phases. In the early years of the Commonwealth (beginning in 1978), a Commonwealth Trial Court was created by the Commonwealth of the Northern Mariana Islands Constitution. It was strictly a trial court of limited jurisdiction. Appeals from this court were taken to the U.S. District Court for the Northern Mariana Islands. In 1985, the Commonwealth Trial Court became a trial court of general jurisdiction. In 1989, the CNMI Legislature created the Commonwealth Supreme Court to hear appeals from the Commonwealth Superior Court (the new name for the Commonwealth Trial Court). In 1997, the Commonwealth Supreme Court and Superior Court became constitutional courts. In cases concerning federal issues, a further appeal could be heard by the U.S. Court of Appeals for the Ninth Circuit, as a “mini” Supreme Court. Beginning in May 2004, decisions of the Commonwealth Supreme Court could only be reviewed by the U.S. Supreme Court. During each transition phase, the Commonwealth Judiciary experienced much growth as it carried out its function as an independent and co-equal branch of the CNMI government.

Commonwealth Trial Court and Appellate Division (1978-1989)

For about a year after local self-government began for the Commonwealth of the Northern Mariana Islands, there was no local court operating. Beginning January 9, 1978, the Trust Territory High Court no longer had jurisdiction over cases arising in the Northern Mariana Islands. Both the Covenant and CNMI Constitution required the establishment of new local and federal courts and the appointment of new judges. The task of establishing the CNMI Judiciary rested with the first governor and the first CNMI Legislature.

In 1978, the legislature enacted the Commonwealth Judiciary Act. In considering the merits of this legislation, many factors and considerations were debated. One of the issues the legislators debated was the necessary minimum qualifications for a judge. For example, while a number of Chamorros and Carolinians were practicing law as “trial assistants” without formal legal education, it was felt that judges and law practitioners should have some education in the U.S. legal system, upon which the CNMI legal system was modeled. In the end, the legislature determined that a judge should be a graduate of an American Bar Association-approved law school and have had at least five years legal experience as an attorney.

Former Chief Justice Jose S. Dela Cruz served as an Associate Judge on the CNMI Superior Court from 1985 to 1989, and as the first Chief Justice of the CNMI Supreme Court from 1989 to 1995.

Mia Giacomazzi served as the law clerk to Chief Justice Miguel S. Demapan of the CNMI Supreme Court from September 2005 to September 2006. She graduated from Santa Clara University School of Law.
The next challenge in establishing the new trial court was selecting the individuals who would become judges. Politics between the parties prevented the first judge from being confirmed for almost a year. In the absence of any judge during that time, the court system was unable to function. The old Trust Territory courthouse meanwhile was turned over to the new Commonwealth Trial Court; and lawyers started filing new civil cases at the courthouse. Police continued to issue traffic tickets and to arrest people for crimes. Residents continued to file petitions for adoption or for divorce. Without a judge, however, these cases simply piled up.

In February 1979, Herbert Soll was appointed and confirmed as the first Commonwealth Trial Court judge. Judge Soll, a former Peace Corps volunteer in Brazil, was working as the Public Defender of the Trust Territory. As the first Commonwealth Trial Court judge, he faced a major task. The Trust Territory Code continued to apply as the codified law of the CNMI under the transitional provision of the NMI Constitution. But because of the absence of a judge for almost a year, the backlog of cases was daunting. In order to get through the backlog, Soll worked all day, and instituted a night court session as well. With this, the new court system began to operate.

Over the next few years, the Commonwealth Trial Court personnel also expanded. About a year after Judge Soll worked as the court’s only judge, two other judges were appointed and confirmed as judges of the Commonwealth Trial Court. Robert Hefner, who was a Trust Territory High Court justice, joined the Commonwealth Trial Court as its first Chief Judge. Robert Moore, who retired

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1 The lofty requirements for a judgeship would not exclude local people from becoming active in the legal community. In 1977, a law school program was created to prepare Chamorros and Carolinians for self-government. People were given scholarships to pursue legal studies in the United States. Law professors from the U.S. mainland also came during the summer to help disadvantaged students prepare for the Law School Admissions Test and to aid in law school applications. This program helped several people who would later become judges in the Commonwealth. The program, commonly called the Summer Pre-Law Program, continues to exist today and is held every other year at the Commonwealth Supreme Court.
from the Judge Advocates General Corps, became the third judge. These three made up the first group of trial judges for the Commonwealth of the Northern Mariana Islands.

Jurisdiction wise, only the non-serious felony cases were heard by the newly-created Commonwealth Trial Court. From 1978 to about 1985, the federal district court was given jurisdiction over the major local cases. Thus, for almost eight years, the federal district court heard federal cases as well as the most serious local cases. Local criminal cases with penalties of five years imprisonment or more, and civil cases dealing with amounts in controversy of over $5000 were also heard by the federal court. All jury trials also fell under the jurisdiction of the federal court.

Aside from its original jurisdiction over major local cases, the federal district court also served as the appellate court for the Commonwealth. Cases appealed from the Commonwealth Trial Court were heard by a panel of three judges on the “Appellate Division” of the U.S. District Court. The panel included the federal district court judge, a judge of the Commonwealth Trial Court, and another federal district judge assigned by the U.S. Court of Appeals for the Ninth Circuit. The opinions rendered by this appellate arm of the U.S. District Court for the NMI were appealable to the Ninth Circuit Court of Appeals.

Commonwealth Supreme Court Created (1989-1997)

On May 2, 1989, Governor Pedro P. Tenorio signed Public Law 6-25, the Commonwealth Judicial Reorganization Act. This legislation established the first local Commonwealth appellate court, and named it the Commonwealth Supreme Court. It also changed the name of the Commonwealth Trial Court to Commonwealth Superior Court. The Commonwealth Judicial Reorganization Act transferred all local appellate jurisdiction to the newly established CNMI Supreme Court. For the first time in the history of the people of the Northern Mariana Islands, its judiciary became a part of a truly self-governing system.
The Commonwealth Judicial Reorganization Act was not without controversy. Some opposed the creation of a local Supreme Court, arguing that appellate review should be kept within the federal court system. Some of the opponents were also concerned with the proposed removal of local cases then pending on appeal with the Appellate Division of the District Court or with the Ninth Circuit Court of Appeals. Proponents of the creation of the CNMI Supreme Court on the other hand, believed that local cases should be handled and reviewed locally. Furthermore, they argued that the Covenant had anticipated the development of an autonomous judicial system. Ultimately, the NMI Judicial Reorganization Act was passed and signed into law by Governor Pedro P. Tenorio.

On May 15, 1989, Jose S. Dela Cruz was sworn in as the first Chief Justice of the CNMI Supreme Court. On the same day, Ramon G. Villagomez was also sworn in as the first Associate Justice of the CNMI Supreme Court. The two justices quickly began filling out the initial Supreme Court staff. Jesus C. Borja was sworn in as the third justice of the Supreme Court on October 24, 1989, giving the Court its full composition to hear cases.

Logistically, the first Supreme Court justices had much work to do. Initially, they needed to find a space from which to operate. They continued operating out of their old courtroom offices in the Civic Center complex. Fortunately, the Judicial Reorganization Act appropriated a sum of money for the use of the Supreme Court, and this funding was used to rent space and to create the chambers of the justices, the clerk’s office, and a conference room, in the Nauru Building in Susupe. It was not until the completion of the Guma’ Hustisia/limwal Aweewe/House of Justice in 1996 that the NMI Supreme Court finally had its own courtroom. In its early years,
the Supreme Court used the main courtroom of the CNMI Superior Court or the U.S. District Court courtroom to hold hearings.

Starting from scratch, the first justices worked ardently to set up the necessary procedures to have a functioning appellate court system. This included the formulation and adoption of a revised Rules of Appellate Procedure, Rules of Attorney Admission and Discipline, and a Code of Judicial Conduct. They also established an appellate filing and docketing system, began handling the administration of the CNMI Bar Exam, and established procedures for hearing motions on appeal and appellate arguments.

The Supreme Court justices were cognizant of the fact that they needed to have appellate machinery in place as soon as practicable in order to have appeals filed, heard and disposed of within a reasonable time. Having successfully set up the necessary mechanisms and procedures, the Supreme Court was able to decide its first case on November 15, 1989. This historic case was Tenorio v. Superior Court, a writ petition filed by taxpayers in the November 1989 general election to have an anti-gambling initiative placed on the ballot. Soon thereafter, regular appeals were heard and decided by the Supreme Court.

The first major difficulty that the newly established Supreme Court faced was the so-called “pending cases” controversy. With the creation of the new appellate court, local cases pending on appeal within the federal system were transferred to the new Commonwealth appellate system. Several litigants and their counsel questioned the removal of their cases from the appellate jurisdiction of the federal courts; specifically those pending before the Appellate Division of the District Court or before the Ninth Circuit. Eventually, this issue was resolved by the courts, but
not until considerable time, energy and resources were expended by the courts, the litigants and their counsel.

**Constitutional Judiciary (1997-2004)**

House Legislative Initiative 10-3, passed by the CNMI Legislature was approved by the people of the CNMI in November 1997. This constitutional initiative was very significant because it established the CNMI Supreme Court and Superior Court as constitutional entities and set forth their respective jurisdictions under a unified judiciary system. Many Commonwealth jurists believe this to be the most significant event in the history of the CNMI Judiciary. With the people's approval of House Legislative Initiative 10-3, the Commonwealth courts now rest on a firm, constitutional foundation.

Establishing the judiciary in the Constitution, rather than by statute, is extremely important because the legislature cannot tinker with it. The judiciary is intended to be the only non-political branch of government. Because the Commonwealth Supreme Court and Superior Court were established originally by statutory law, theoretically they could be altered by legislation. To remove such a possibility, and to preserve the integrity and independence of the judicial branch, the judges and justices of the CNMI Judiciary, including Chief Justice Dela Cruz, strongly supported a constitutional amendment to ensure the judiciary truly became an independent and co-equal branch of the Commonwealth government.

At about the same time that the CNMI Judiciary was being established under the CNMI Constitution, the judicial branch was also settling into its new home. Construction of the Guma’ Hustistia began in early 1994 and was completed in 1996. For the first time since its creation, the Supreme Court finally had a courtroom of its own. The new judicial complex brought together all of the judicial branch under one roof: the Supreme Court, Superior Court, Law Library, Law Revision Commission, Recorder's Office, Clerk of Court staff, Probation Office, CNMI Bar Association, five trial courtrooms, and Supreme Court courtroom.

In constructing this building, it took the Court over a year to decide which option to choose regarding a court building. Initially, the plan was simply to build a building to house only the Supreme Court. Later, there was discussion to build a structure which would house the entire CNMI Judiciary as well as the U.S. District Court. Construction of a “federal building” posed much difficulty in terms of financing and federal building requirements. Presiding Judge Robert Hefner asked Chief Justice Dela Cruz to seriously consider including the Commonwealth Superior Court into the new building plan. Chief Justice Dela Cruz agreed that the Superior Court, which was located at the Civic Center, was in dire need of repairs and additions. Therefore, the building plans were drawn up to include all the judicial offices together in the new building complex. Of the new building to be erected, former Chief Justice Dela Cruz said, “It is an edifice symbolizing the rule of law in the Commonwealth; a building that the people of the CNMI can all be proud of.”

In an effort to promote access to justice throughout the Commonwealth, the judiciary later began constructing a new courthouse for Tinian. This project was completed in 1998. With the new courthouse on Tinian, judges from Saipan regularly travel to Tinian twice a month in order to conduct hearings and trials, in both criminal and civil matters. The Supreme Court also began holding oral
argument sessions on Tinian at least once a year. With the completion of the new Tinian courthouse, the judiciary embarked on drawing up plans to build a new courthouse for Rota. The groundbreaking ceremony for the Rota courthouse took place on January 14, 2004.

Court of Last Resort (2004 and Beyond)

One very significant event in the history of the CNMI Judiciary took place in May 2004. Pursuant to the CNMI Covenant, appeals from the CNMI Supreme Court to the Ninth Circuit Court of Appeals would be for a period of fifteen years only. The co-jurisdictional and co-operative relationship between the CNMI courts and the federal courts that began in 1978 ended in 2004; lasting over a quarter of a century. Like the severing of its umbilical cord, the CNMI Judiciary has achieved a status similar to that between a state judiciary and the federal courts. Since appeals from the CNMI are no longer taken to the Ninth Circuit Court of Appeals, the appellate decisions of the CNMI Supreme Court are generally final, unless the U.S. Supreme Court grants certiorari to a case from the CNMI. This places the CNMI Supreme Court in the same position as a State Supreme Court in the United States: a court of last resort.

The May 2004 CNMI Judiciary celebration of this milestone was a momentous event. Jurists from many island nations and the U.S. mainland all gathered in the CNMI to celebrate this historic occasion. Judges from the Ninth Circuit Court of Appeals also came, including Chief Judge Mary Schroeder, and former Chief Judges Clifford Wallace and Alfred Goodwin. Other dignitaries included the Supreme Court justices of Guam, Republic of Palau, American Samoa, Chuuk, and FSM.

Having achieved this stage in its growth and development, the CNMI
Judiciary continues its important task of promoting justice and the rule of law for the entire Commonwealth. The Centron Hustisia in Rota was completed in October 2005, and Supreme Court oral argument sessions have been held there. Before the construction of the new courthouse, the cases in Rota were heard in available buildings, including a school classroom and a restaurant. With the completion of the Centron Hustisia building, the people of Rota now have a permanent courthouse on their island.

Efforts to unify and streamline administration of the NMI Supreme Court and Superior Court took an important step forward when, on November 30, 2009, the Northern Mariana Islands Judicial Council was established by the Commonwealth Judiciary and approved by the Commonwealth Legislature. The Judicial Council is composed of five voting members consisting of the three Supreme Court Justices, the Presiding Judge of the Superior Court and one of the four associate judges. Non-voting members include the president of the NMI Bar Association and court managers. The Council is entrusted with overseeing court administration and can set judicial branch administrative policies, recommend court rules to the Supreme Court for submission to the legislature, and suggest new legislation affecting the judiciary. The goal of the Judicial Council is to ensure fair, accountable, and efficient court management, and to institutionalize an administrative structure that strengthens public trust in the judiciary.

Conclusion

The present Commonwealth Judiciary is now operating under a self-governing system of government for the first time in several centuries. It has been evolving for a relatively short period of time; less than three decades. Through the various mentioned states above, however, the judiciary has developed and matured at a very rapid pace. First, the Commonwealth Trial Court was established at first with limited jurisdiction, and later with general jurisdiction; but its decisions were reviewed by a federal court panel. Next, the Commonwealth Supreme Court was established, bringing the judicial system entirely into a local scheme. Then, the CNMI Judiciary was re-established in the NMI Constitution, as a permanent and co-equal branch of government. And more recently, the CNMI Supreme Court finally severed its ties with the Ninth Circuit Court of Appeals, giving it the status of a state court of last resort. Though it has experienced growing pains, the CNMI Judiciary has been able to develop a court system that commands the respect of the people and where the rule of law governs. This is clearly the goal of the judiciary in any democratic government; one where decisions and rulings rendered by the courts are fair, just, and equitable, and where the litigants are satisfied that they have been treated fairly and justly.
Introduction

The Commonwealth Supreme Court was established on May 2, 1989, to hear appeals from the Commonwealth Superior Court. Prior to this date, the Appellate Division of the U.S. District Court heard appeals from the Commonwealth Trial Court, and decisions were appealed to the U.S. Court of Appeals for the Ninth Circuit. Summarized below are seminal decisions issued by both the Appellate Division and the Commonwealth Supreme Court.¹ Cases are grouped in chronological order by subject area, although many cases involve multiple issues. While selecting landmark Commonwealth cases is a subjective task, the summaries are intended to display the variety of cases the appeals courts have decided over the years and the evolution of Commonwealth jurisprudence.² Some case summaries sidestep complex procedural or legal issues that are not central to the court decisions. Readers interested in learning more about a particular case are encouraged to read the full court opinions.³

Branches of Government

Executive:
Sablan v. Fitial, 2009 MP 11

This was the first Open Government Act case appealed to the Supreme Court. In 2008, the governor of the CNMI filed a lawsuit against the federal government in an attempt to block the impending federalization of the Commonwealth immigration system. A concerned citizen requested documents under the Open Government Act.

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¹ Portions of these summaries are taken from judicial opinions with the knowledge and consent of the Commonwealth judiciary.

² A citation is listed next to each case name. These citations show when each case was published and where the court opinion is located. Cases decided by the Appellate Division are located in the Commonwealth Reporter, and the “CR” citation is used. For example, the citation 1 CR 552 (1983), denotes that this opinion was issued in 1983 and begins on page 552 of the first volume of the Commonwealth Reporter. Cases issued by the Commonwealth Supreme Court are published in the Northern Mariana Islands Reporter. Cases published prior to June 12, 1996, use the “NMI” designation. For example, the citation 2 NMI 195 (1991), indicates that the opinion was issued in 1991 and begins on page 195 of the second volume of the Reporter. Cases published after June 12, 1996, use the “public domain” citation format, which includes the initials “MP”. For example, the citation 2009 MP 11, indicates that this was the eleventh published opinion issued in 2009.

³ The CNMI Law Revision Commission is entrusted with compiling and publishing Commonwealth law. Supreme Court opinions issued since 1996 are accessible through the LRC website, located at: http://www.cnmilaw.org. Earlier decisions are available in bound volumes of the NMI and Commonwealth Reporters, available at the Hillblom Law Library in the Guma’ Hustisia, located in Susupe, Saipan.
concerning the amount of money the Commonwealth owed the lawyers it had hired for the lawsuit. When the government refused to disclose the documents, the citizen petitioned the Superior Court to order the government to turn over the documents. After the Superior Court ordered disclosure, the government appealed to the Supreme Court. The government argued that turning over the documents would disadvantage it in the pending lawsuit. The Supreme Court disagreed, holding that the importance of public disclosure and government accountability outweighed any disadvantage that might occur as a result of disclosure. The Supreme Court affirmed the trial court’s order to disclose the documents.

Torres v CUC, 2009 MP 14

From January 2006 to May 2006, Governor Benigno R. Fitial issued a series of executive orders which prompted Stanley M. Torres and Jack A. Angello to challenge their monthly Commonwealth Utilities Corporation (“CUC”) bills. In the first such order, Executive Order 2006-1 (the “First Executive Order”), the Governor acted pursuant to his reorganizational powers under Article III, Section 15 of the Commonwealth Constitution and transferred the CUC, formerly an independent public corporation, to the Utilities Division of the Department of Public Works (“DPW”). In May 2006, the Governor issued Executive Order 2006-4 (the “Second Executive Order”), which rescinded the First Executive Order and converted the CUC back to a public corporation, but reorganized the CUC’s administration in a way that significantly departed from its original form. Torres and Angello argued that the Governor’s restructuring caused their utility rates to illegally increase. The CUC argued that the Governor’s wholesale restructuring was constitutionally-sanctioned, and that the changes the Governor made were necessary for efficient administration of the agency. The Superior Court determined that Governor Fitial had not exceeded his reorganizational powers.

Torres and Angello appealed the Superior Court’s decision to the Supreme Court. The Supreme Court reversed, holding that the Commonwealth Constitution grants the governor wide discretion to reorganize the executive branch, but does not allow the governor to create a new entity, agency or department. This constitutional power is vested solely in the legislature. By attempting to re-establish the CUC, the Governor had created a new executive branch entity, thereby usurping the authority of the legislative branch. Because the Second Executive Order establishing the new entity was constitutionally defective, the resulting increased utility fee schedules were also defective. Moreover, the Supreme Court found that by radically altering the CUC enabling statutes in both executive orders, the Governor had engaged in the legislative process. Since only the legislature may create law or make substantial changes to existing law, both executive orders infringed upon the legislature’s authority. Although the legislature later fixed the defects, the CUC was still operating as an illegitimate entity in the interim. Accordingly, Torres and Angello were billed at an illegal rate for a period of about three months.

Legislature:

Pangelinan v. CNMI Fifth Legislature, 2 CR 1148 (1987)

During the Second Constitutional Convention, held in July 1985, the delegates passed Constitutional Amendment 9, which placed a $2.8 million ceiling on the legislature for operations and activities. The legislature subsequently passed
Public Law 5.1, which appropriated $2.8 million for operations and activities, and a separate bill, Public Law 5.9, which allocated $540,000 for their salaries. Maria T. Pangelinan filed suit to prevent the legislature from exceeding the $2.8 million ceiling. The legislature responded that Amendment 9 did not include legislators’ salaries. On appeal from the Superior Court, the Supreme Court examined the text of Amendment 9, and utilizing principles of constitutional construction concluded that the commonly understood meaning of legislative budget ceilings for “operations and activities” included salaries. Thus, the $2.8 million limit in Amendment 9 included legislators’ salaries, and the Supreme Court affirmed the Superior Court’s order stopping the legislature from allocating the additional $540,000.

Rayphand v. Tenorio, 2003 MP 12

As compared to the United States, the CNMI has a very hands-on system for managing public monies. The CNMI Constitution requires the legislature to authorize any disbursement of public funds, and taxpayers have the rare ability to sue to stop expenditures or to recover misspent funds. In 1994, Jeanne H. Rayphand sued Governor Froilan C. Tenorio alleging misuse of public funds, including the purchase of luxury automobiles and spending in excess of the budget passed by the legislature. In response to the suit, the legislature passed Public Law 9-23, which attempted to exempt the Governor from liability for his actions.

The Supreme Court held Public Law 9-23 unconstitutional because it attempted to protect the Governor from a duty specifically enumerated in the Constitution—the duty not to spend public funds in excess of those appropriated by the legislature. While Public Law 9-23 did not protect the Governor, he was actually able to claim qualified immunity to most of the charges. Qualified immunity is available to officials who err in their duties so long as the mistake is one that a reasonable officer could have made. However, immunity did not extend to the charge that his spending exceeded the amount appropriated in the fiscal year budget. The Supreme Court ultimately remanded the case to the Superior Court to make more factual findings about how Governor Tenorio had spent the public funds.

Judiciary:
Reyes v. Reyes, 2004 MP 1

In addition to addressing numerous claims arising out of marriage dissolution proceedings, the Supreme Court confronted the constitutionality of a CNMI Code provision mandating that the Supreme Court and Superior Court issue written opinions within one year after cases are submitted. The Court ruled that this one year requirement was unenforceable as it violated the separation of powers doctrine of Article IV, Section 1 of the Commonwealth Constitution by unduly interfering with the judiciary’s core function of adjudicating disputes. The Court stressed that the Commonwealth Constitution establishes three separate, co-equal branches of government, that no branch could assert control over the others except as provided in the constitution, and that no branch could exercise the power granted by the constitution to another. While the Supreme Court stated that it strived to issue final opinions within a year of submission, the arbitrary one year deadline failed to respect the unique attributes attending each case. Moreover, the law was superfluous given that all judges and justices are duty-bound by the Commonwealth Code of Judicial Conduct to “dispose promptly of the business of the court.”
Two Commonwealth officials requested that the Supreme Court answer legal questions regarding the constitutional process for selecting the Commonwealth Board of Education teacher representative. However, the Supreme Court held that it was unable to clarify the proper procedure for selecting a teacher representative because the petitioners failed to satisfy the prerequisites for submitting certified legal questions as set forth in the Commonwealth Constitution. The Supreme Court reasoned that both petitioners agreed with each other, and that since the parties that had allegedly disagreed with them had not joined the petition, the Court had no jurisdiction to answer the legal question.

In the Matter of Juan T. Lizama, 2008 MP 20

In a case of first impression, the CNMI Supreme Court was asked to determine proper judicial sanctions against Judge Juan T. Lizama. Judge Lizama wrote two letters after being disqualified from a highly publicized case by another Superior Court judge, David A. Wiseman. Judge Lizama sent the letters to the presiding judge and to the attorneys involved in the pending case. In the letters Judge Lizama criticized Judge Wiseman and accused him of bias in the disqualification matter.

The Supreme Court ruled that Judge Lizama's letters violated multiple canons of the Commonwealth Code of Judicial Conduct. Specifically, the letters constituted an improper ex parte communication (contact that unfairly excludes one or more parties to the case), contained public comment on a pending case, and impugned the integrity of the judiciary. As punishment, the Court ordered that before Judge Lizama could resume the practice of law, he had to take and pass the Multistate Professional Responsibility Examination and reimburse the judiciary for the costs of investigating and prosecuting the disciplinary action.

Civil Procedure

Wabol v. Villacrusis, 1 NMI 34 (1989); (Reversed by 908 F.2d 411 (9th Cir. 1990), amended in 958 F.2d 1450 (9th Cir. 1992))

In this case, Concepcion S. Wabol, a native landowner, attempted to void a lease agreement with a non-native tenant, Victorino U. Villacrusis, because the term of the lease exceeded the constitutionally allowed limit, which at the time of the lease was forty years. The passage of the Commonwealth Judicial Reorganization Act (“Act”) in 1989 while this case was pending triggered several important jurisdictional issues. The matter originated in the Commonwealth Trial Court (which became the Superior Court after passage of the Act). The Trial Court determined that the lease was valid, but only for forty years. Wabol appealed to the Appellate Division of the U.S. District Court, which declared the lease void. Villacrusis then appealed to the U.S. Court of Appeals for the Ninth Circuit.

While the Ninth Circuit was considering the case, the Act became law and established the Supreme Court for the Northern Mariana Islands, which was granted appellate jurisdiction over all appeals from the Superior Court. Wabol immediately appealed to the new Commonwealth Supreme Court, contending that the Ninth Circuit no longer had jurisdiction over the case. The Commonwealth Supreme Court agreed, and held that it had jurisdiction over the appeal because the Commonwealth legislature had the power to decide which courts (federal or local) had appellate jurisdiction.
jurisdiction over both pending and future appeals.

The Ninth Circuit Court of Appeals disagreed, however, and held that under the Covenant, the Commonwealth could not divest the federal court of appeals of jurisdiction over appeals properly filed before the passage of the Act. As to the merits, the Ninth Circuit held that that the land alienation restrictions in Article XII of the CNMI Constitution are not subject to equal protection requirements, and are therefore permissible.

**Waibel v. Farber, 2006 MP 15**

One attorney, David J. Lujan, sued another attorney, John F. Perkin, and Perkin’s malpractice insurer St. Paul Fire & Marine Insurance Co. The American-based St. Paul argued it could not be sued in Commonwealth courts because the Commonwealth courts lacked personal jurisdiction. Personal jurisdiction means that a court has the legal ability to exercise authority over a person or entity, and is established if a party has sufficient contacts with the jurisdiction in question. Establishing that a court has personal jurisdiction over all the parties is required before a court can reach the merits of a case.

Upon review, the Supreme Court determined that St. Paul’s only connection with the Commonwealth was the single liability policy it issued to Perkin, and that this amount of contact was insufficient to make it foreseeable that it would be subject to suit in the Commonwealth. The Court further concluded that it would offend principles of due process to subject St. Paul to suit in the Commonwealth when it had not conducted any activities there. The Supreme Court dismissed the action against St. Paul for lack of jurisdiction.

**Commonwealth v. Daikichy, 2007 MP 27**

A man who pled guilty to assault and battery and disturbing the peace was placed on probation. A few months later he was arrested for assaulting the same victim again. As a result, the Commonwealth filed a motion to revoke his probation, which the Superior Court granted after holding a revocation hearing. Since the petition for revocation did not specifically cite the statute he had allegedly violated the man appealed, arguing that the revocation of his probation status violated his constitutional due process rights because he was not provided with adequate notice.

The Supreme Court held that probationers are entitled to receive reasonable notice of the specific statute they are charged with violating, but that in this case, the probationer had received adequate notice. Notice was satisfied by information contained in affidavits that were attached to the petition and statements made during the hearing. Moreover, the Court ruled that that any error that may have occurred was harmless given the notice that was received. Additionally, there was overwhelming and undisputed evidence that the defendant assaulted the victim.

**Torres v Fitial, 2008 MP 15**

On January 27, 2006, Governor Benigno R. Fitial declared a state of emergency in the Commonwealth as a result of the Commonwealth Utilities Corporation’s (“CUC”) pending inability to provide utility services. After issuing the declaration, Governor Fitial reprogrammed funds to the CUC from a number of government entities, including the Commonwealth legislature. Part of the funds Fitial diverted were taken from Representative Stanley M. Torres’ individual
legislative account. Torres filed suit claiming that Fitial’s reprogramming authority did not permit him to take funds from the legislative branch to resolve the problems at the CLIC. During Superior Court proceedings, Torres and Governor Fitial entered into settlement negotiations and Torres submitted a proposed settlement to the Superior Court. This document contained his signature, but not Governor Fitial’s. Without informing Governor Fitial, the Superior Court issued an order approving the settlement. Governor Fitial appealed and requested that the Supreme Court vacate the settlement order. While preparing his reply brief, Governor Fitial’s counsel discovered that the Superior Court had issued a second order granting relief from its settlement order. The relief order was based on Commonwealth Rule of Civil Procedure 60(a), which allows the trial court to correct clerical mistakes after issuing a final order.

Governor Fitial argued that he never agreed to the proposed settlement order and that it did not accurately reflect any agreement between himself and Representative Torres. Torres argued that Governor Fitial agreed to the settlement’s terms and that the Superior Court acted within the scope of its authority when it entered the settlement order because Fitial purposefully delayed its implementation. The Supreme Court found that for a settlement to be enforced, both parties must actually have agreed to it. Upon review of the record, the Court could not find any evidence that Governor Fitial agreed to the settlement order. As to the relief order, the Supreme Court held that Com. R. Civ. P. 60(a) is intended to correct clerical errors, not “errors of substantive judgment.” The decision to order a settlement that awards money to a specific party without sufficient grounds was clearly not a clerical error. Furthermore, Com. R. Civ. P. 60(a) prohibits the trial court from altering an order or decision after an appeal is filed unless the Supreme Court first grants permission for the Superior Court to do so. Accordingly, the Supreme Court vacated both the settlement order and the relief order.

**Constitutional Issues**

Commonwealth v. Atalig, 1 CR 552 (1983) (Reversed by 723 F.2d 682 (9th Cir. 1984))

Daniel A. Atalig, a Trust Territory citizen residing on Rota, was arrested for marijuana possession after an airport customs inspector discovered five pounds of marijuana in Atalig’s baggage. The Commonwealth Trial Court denied Atalig’s request for a jury trial, stating that Section 501(a) of the Covenant recognized that jury trials in criminal prosecutions under CNMI law were only required when mandated under CNMI law. Section 501(1) of the Trust Territory Code limited jury trials to offenses punishable by more than five years imprisonment or a $2,000 fine. On appeal, the Appellate Division of the U.S. District Court reversed the Commonwealth Trial Court, holding that the fundamental due process right to a jury trial guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution applied to criminal prosecutions, and that Covenant and Trust Territory Code provisions to the contrary were unconstitutional. The court reasoned that the CNMI was an unincorporated territory, and that fundamental rights—including the right to a jury trial—applied equally to the States and to unincorporated territories such as the CNMI. The court

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4 The full title of this agreement is: Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the Unites States of America.
concluded that even though Commonwealth law limited punishment for marijuana possession to one year imprisonment and/or a $1,000 fine, due process required that Atalig be afforded a jury trial.

The case was appealed to the Ninth Circuit Court of Appeals, which reversed the Appellate Division’s ruling. The Court of Appeals held that Section 501(a) of the Covenant and Section 501(1) of the Trust Territory Code were not unconstitutional, and that Atalig therefore was not entitled to a jury trial. The court reasoned that while the jury trial right was fundamental to the American justice system, a jury trial might be inappropriate in territories, like the CNMI, whose cultures, traditions and institutions may differ from traditional Anglo-American practices. In short, the Ninth Circuit Court of Appeals’ decision reaffirmed the sanctity of the Covenant provision permitting the CNMI to determine when jury trials were required in criminal cases.

**Commonwealth v. Atalig (“II”), 2 CR 1006 (1987)**

The island of Rota was put under an agricultural quarantine after fruit flies were discovered on the island. Under the quarantine, all travelers coming to Saipan from Rota were subjected to a search and inspection to prevent fruit flies from establishing a presence on Saipan. While searching a passenger arriving in Saipan on a flight from Rota, inspectors found five pounds of marijuana in his possession. After being charged, Daniel A. Atalig made a motion to suppress the evidence since it had been seized after a warrantless search. The Commonwealth Trial Court denied Atalig’s motion and the Appellate Division of the U.S. District Court affirmed the decision on appeal. The Appellate Division held that under Ninth Circuit precedent, agricultural quarantine inspections are an exception to the Fourth Amendment’s search warrant requirement because the logistics of obtaining a warrant for every passenger makes the requirement unreasonable.

**United States v. Borja (Mayor of Tinian), 2003 MP 8**

The U.S. District Court for the Northern Mariana Islands certified a question to the Commonwealth Supreme Court, asking it to determine whether the municipality of Tinian and Aguiguan is a chartered municipality such that it can sue and be sued. The United States had sued to collect approximately two million dollars, alleging breach of contracts entered into between the United States and the Mayor of Tinian and Aguiguan. Tinian argued that because it was not a chartered municipality it could not sue or be sued.

In ruling in favor of the United States, the Supreme Court relied on the plain language of the CNMI Constitution. Article VI, Section 8 of the Constitution states that the “chartered municipality form of local government on Rota, and, Tinian and Aguiguan, is hereby established.” The Court ruled that this section is self-executing because the phrase “hereby established” made it obvious that the people of the Commonwealth desired Rota, Tinian, and Aguiguan to become chartered municipalities immediately upon ratification of the Constitution. While admitting that municipalities are rarely chartered in constitutions, the Supreme Court stressed that the Constitution was a more than adequate chartering document because it defined the Municipality’s powers and how these powers were to be regulated.

**Commonwealth v. Blas, 2007 MP 17**

After Raymond B. Blas and four friends drank significant amounts of beer
at the beach, they were involved in an automobile accident. Blas lost control of the truck and struck a telephone pole, throwing everyone from the truck and killing one passenger. The Superior Court ordered two separate trials: a jury heard the vehicular homicide charge, while the reckless driving and DUI charges proceeded by bench trial. The prosecution’s primary evidence was testimony from other passengers that Blas was driving. Blas denied driving, and presented statements from a police officer who testified that Blas being thrown farthest from the truck indicated he was a passenger rather than the driver. The jury found the officer’s testimony compelling and acquitted Blas of the homicide charge, but the judge found Blas guilty of reckless driving and DUI. Blas appealed, claiming his bench trial convictions should be thrown out as inconsistent with the jury’s acquittal. The Supreme Court upheld the convictions, finding that two separate trials stemming from the same incident can reach opposing verdicts.

Marine Revitalization Corp. v. Dept. of Land and Natural Resources, 2010 MP 18

The Department of Land and Natural Resources (“DLNR”) appealed a Superior Court order that provided several methods for it to pay a judgment to Marine Revitalization Corporation (“MRC”). The order awarded MRC tax credits worth over five million dollars, ordered that funds and income held by DLNR be spent to satisfy the judgment, and ordered that money already appropriated by the legislature for the payment of judgments be transferred to MRC. DLNR contended that any action by a Commonwealth court to directly or indirectly satisfy the judgment in the absence of a specific legislative appropriation violated both the Commonwealth’s Constitution and statutes. MRC countered that the government’s refusal to pay the judgment violated the Constitution, and that the Supreme Court possesses the authority to ensure that the government complies with the judiciary’s judgments and orders.

The Supreme Court held that the separation of powers doctrine prevents the judiciary from ordering the legislature to appropriate funds to pay a judgment. While the Court can fully adjudicate disputes between private parties and the Commonwealth, only the legislature can appropriate funds to satisfy judgments. The Court ruled that it could only order the government to pay funds to a litigant if those funds had already been appropriated for the payment of judgments. As a result, the Supreme Court held that the Superior Court exceeded its constitutional and statutory authority when it awarded MRC assignable tax credits and portions of DLNR’s budget and income. The Supreme Court affirmed the part of the Superior Court’s order that awarded MRC money that the legislature had already appropriated for the payment of judgments.

Employment Law

Northern Marianas College v. Civil Service Commission, 2007 MP 8

Appellee Jack Angello was a Northern Marianas College (“NMC”) employee until NMC terminated his employment under the “without cause” provision of his employment contract. He appealed his termination to the NMC Employee Appeals Committee, which upheld NMC’s decision. The employee then appealed the ruling to the Civil Service Commission (“CSC”). NMC argued that the CSC lacked jurisdiction over NMC’s employment decisions. The CSC found that it had
jurisdiction over NMC’s employment decisions, basing its decision on the Article XX, Section 1 of the CNMI Constitution, which states that “the [CSC] shall be the sole authority authorized by law to exempt positions from civil service classifications.”

After multiple hearings and procedural battles in the Superior Court, the Supreme Court ultimately held that NMC is a fully autonomous agency under the CNMI Constitution, and is thus exempted from the civil service system. The Court reasoned that the CNMI Constitution granted NMC the power to fully control the administration of its affairs, and that NMC was empowered to make its own employee termination decisions without the CSC’s review. Thus, the Court held that NMC’s decisions are not appealable to the CSC.

**Pangelinan v. Northern Mariana Islands Retirement Fund, 2009 MP 12**

After working for twenty-eight years in the public school system, Thomas Pangelinan decided to retire. Under the CNMI Constitution, government workers choosing to retire after at least twenty years of service were given a five-year credit in the calculation of the amount of their retirement benefits. However, they were prohibited from being reemployed by the government for more than sixty days in any year without losing their benefits for the remainder of that year. Pangelinan was given the five-year credit and received benefits based on that credit for four years after his retirement. After four years, Pangelinan was elected to the Commonwealth legislature. The Northern Mariana Islands Retirement Fund (NMIRF) subsequently revoked his retirement benefits, claiming he had been reemployed by the government for more than sixty days. Pangelinan argued that he had never assented to the five-year credit and should not have been subject to the provision revoking his benefits if he was reemployed by the government. The Supreme Court, however, held that the NMIRF was correct in denying Pangelinan the whole year’s benefits once he reentered the workforce since he had not actively declined the five-year credit and had passively received benefits, including the five-year credit, for a number of years.

**Election Law**

**Sablan v. NMI Board of Elections, 1 CR 741 (1983)**

This case raised issues similar to those the Supreme Court would face twenty years later in In re Petition of Pangelinan. Petitioners sued the Northern Marianas Board of Elections, claiming that differences in the number of residents on each island impermissibly diluted the votes of some citizens in violation of the Equal Protection Clause of the CNMI Constitution. Since it is a fundamental command of equal protection that each person’s vote be given equal weight—“one person one vote”—the question before the court was how much deviation from this standard was permissible. For example, the vote of a Tinian resident, with only one representative in the House of Representatives for its 866 citizens, would carry about thirty-five percent more weight than the vote of one of Rota’s 1261 citizens, since Rota also had only one Representative in the House. The Appellate Division of the U.S District Court found that the CNMI’s unique geographic location, relatively small population, and distribution realities imposed inherent limitations on the designation of election districts. The court held that equal protection was not violated, as the drafters of the CNMI Constitution, who were aware of these unique circumstances, must have expected some variation between the voting power of the citizens on each island,
and crafted the Constitutional voting requirements mindful of such limitations.


Following a general election, three unsuccessful candidates from the Democratic Party filed an election contest with the Board of Elections. They claimed that the winning candidates from the Republican Party had engaged in illegal activity by having voters place distinguishing marks on their ballots for the purpose of being later identified by party officials who could verify their loyalty. After the Board of Elections and the Commonwealth Trial Court dismissed their claims, they appealed to the Appellate Division of the U.S. District Court.

The candidates argued that the votes should not be counted because the distinguishing marks violated the right to cast a secret ballot. The Appellate Division rejected this claim, finding that the right to cast a secret ballot is not the right of citizens in general, but of each individual voter. Furthermore, the right to a secret ballot could actually be waived by individual voters who wished to leave distinguishing marks on their ballots. The Appellate Division held that since the Commonwealth legislature had not passed any laws explicitly forbidding distinguishing marks on ballots as had many other jurisdictions, the ballots were not illegal or void as long as it was clear for whom the voter was voting. The court stressed that it did not condone the voting scheme, but that it was bound by the laws enacted by the Commonwealth legislature, which did not prohibit this voting method.

Tenorio v. Superior Court, 1 NMI 1 (1989)

In the first case decided by the newly-formed Supreme Court, petitioners sought a writ of mandamus directing the Superior Court to vacate its order enjoining the NMI Board of Elections from placing an anti-gambling constitutional amendment initiative on the general election ballot. Article XVIII, Section (4)(a) of the CNMI Constitution permits the people of the Commonwealth to propose constitutional amendments by popular initiative. Plaintiffs’ complaint alleged that the Attorney General violated this constitutional provision in certifying an initiative when the underlying petition had not been signed by a sufficient number of voters.

The Board of Elections had promulgated emergency regulations governing the timely submission of initiative petitions. When the requisite number of signatures was not obtained, the Attorney General allowed the circulators of the petition five additional days to meet the requirements. The Superior Court ruled that the five-day extension was impermissible, but the Supreme Court reversed. The Supreme Court held that by striking down regulations governing petition cut-off dates, the Superior Court impermissibly substituted its judgment for that of the agencies delegated by the legislature to handle this matter—the Board of Elections and Attorney General.

In re Petition of Pangelinan, 2008 MP 12

Two Commonwealth voters petitioned the Supreme Court to reapportion and redistrict the Commonwealth House of Representatives. Petitioners argued that only citizens should be considered for apportionment purposes, rather than total population, which was the basis of the then-current apportionment scheme. They further argued that non-citizens made up a far higher percentage of Saipan’s population than Rota’s or Tinian’s population, so including non-citizens for apportionment purposes resulted in Saipan having a greater number
of representatives then there would be if only citizens were counted. Petitioners argued that the then-current apportionment scheme unconstitutionally diluted Rota and Tinian votes in relation to Saipan votes, which violated the “one person, one vote” standard. In rejecting petitioners’ arguments, the Supreme Court upheld the legislative decision to apportion the House of Representatives by total population. The Court also held that the “one person, one vote” standard as it has evolved in United States courts is inapplicable in the Commonwealth. Although population is the starting point for apportionment, and voter parity the default objective, the Supreme Court determined that the legislature may base apportionment decisions on other considerations given the unique geographical and demographic makeup of the Commonwealth.

**Rebuenog v. Dela Cruz Aldan, 2010 MP 1**

Defendant Tobias Dela Cruz Aldan was declared the winner of the Northern Islands mayoral election over Plaintiff Ramona Taisakan Rebuenog. Out of 137 votes cast, Aldan received sixty-nine votes and Rebuenog received sixty-eight votes. Rebuenog challenged the election results, arguing that illegal voters had cast ballots, and that if these votes were removed there would be enough votes in her favor to declare her the winner. After subtracting the votes cast by illegal voters, the Superior Court declared Rebuenog the election winner.

Upon review, the Supreme Court affirmed the procedures adopted by the Superior Court to deduct illegal votes from the election results, but held that the trial court erred by declaring Rebuenog the election winner because the Superior Court could not determine with certainty which candidate received the most legal votes. Accordingly, the Supreme Court ordered the Commonwealth Election Commission to conduct a new mayoral election.

**Immigration Law**

**Sirilan v. Castro, 1 CR 1082 (1984)**

In 1977, the Commonwealth legislature passed Public Law (P.L.) 5-11, which granted permanent residency status to non-citizens who were of good moral character and had resided in the CNMI for at least five years. In 1981, the legislature passed P.L. 2-17, which repealed P.L. 5-11. The plaintiff, Ramon P. Sirilan, was an immigrant who by 1981 had met the requirements for permanent residency status under P.L. 5-11. Sirilan argued that: (1) he had a vested right to permanent residency status under the old law; (2) by revoking this right, the new law violated constitutional principles of due process; and (3) the law violated constitutional equal protection guarantees by treating persons who had already filed an application for permanent residency status differently from those who had not. The Commonwealth Trial Court rejected all of Sirilan’s arguments, but the Appellate Division of the U.S. District Court ultimately reversed based on equal protection principles.

The Appellate Division rejected Sirilan’s first argument, holding that the legislature had discretion to modify statutory entitlements and that Sirilan had no vested right to permanent residency status. The Appellate Division also rejected Sirilan’s second argument, holding that although immigration matters are subject to due process analysis, the new law passed muster under this analysis because the legislature’s decision was not arbitrary or capricious.
however, was persuaded by Sirilan’s third argument and held that the new law violated constitutional equal protection guarantees. The Court held that given the unique equal protection language in the CNMI Constitution, classifications of persons in the CNMI should be subject to more strict analysis than they would be under the equal protection clause of the federal constitution. Thus, the Appellate Division, noting a concern for the potential of invidious discrimination against non-citizens, rejected incorporation of the so-called “rational basis” test – a standard that allows a discriminatory law to stand “if any conceivable set of facts could reasonably support” the government policy. Instead, the court found it more appropriate to ask whether the governmental classifications were substantially related to achieving important governmental interests—a standard that provided greater protection to the subjects of the newly-amended law. The Appellate Division found that the new law failed to meet this standard and was therefore unconstitutional.

Subsequently, in Amog v. Keatley, 2 CR 751 (1986), the Appellate Division ruled that the Sirilan decision, while altering P.L. 2-17 to conform with constitutional norms, did not restore P.L. 5-11.

Attorney General v. Ligaya, 2 CR 927 (1986)

Two Filipino mothers appealed to the Appellate Division of the U.S. District Court after the Commonwealth Trial Court ordered their deportation from the CNMI because their entry permits had expired. The mothers claimed that they had given birth to children while residing in the CNMI and that their children were therefore naturalized citizens of the CNMI. They argued that they should not be deported because it would result in a “de facto” deportation of their children, which would violate the children’s citizenship rights. The Appellate Division, however, held that the citizenship status of one’s children is not a relevant issue in a deportation case. The Appellate Division affirmed the Trial Court’s deportation order, noting that the deported parents were not obligated to take their children with them.

Inheritance Law and Local Inheritance Customs

In re Estate of Cabrera, 2 NMI 195 (1991)

Jose “Pepe” Cabrera died on March 25, 1975. Prior to his death, he designated the division of his land amongst his heirs in the act known under Chamorro custom as a “partido.” Among his designated heirs were several “pineksai”—children Pepe raised as his own via the Chamorro customary adoption method known as “poksai.” After Pepe’s death, his heirs attempted to divide the land according to his wishes. One of the pineksai, Bernadita, a daughter of one of Pepe’s deceased daughters, along with her two sisters (both of whom Pepe had pointedly refused to grant land), objected to the division. The three dissenters claimed that because Pepe died without a formal will he should be declared intestate and his land equally divided amongst the branches of the family. They contended that two of the pineksai should not inherit.

Both the Superior Court and the Supreme Court found that the customary practices of partido and poksai were legally effective measures and Pepe’s original division of land was to be followed. The Supreme Court reasoned that in enacting the Northern Mariana Islands Probate Law the legislature intended to protect

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5 “Pokṣai” means the raising of a child as though the child were a natural and legitimate child.
Chamorro custom, and that distributing property to natural children and poksai was consistent with Chamorro customary law and culture.

**Estate of Ayuyu, 5 NMI 31 (1996)**

Juan and Isabel Ayuyu had seven children, one of whom was named Corbiniano. They also had a granddaughter named Maria whom they raised under the Chamorro custom of poksai. Under this custom a child is raised by someone other than the child’s biological parents. Isabel owned a parcel of land in Unginao, which she brought into the marriage. Just prior to 1944, Juan and Isabel performed a partido, giving the land to Corbiniano, who used proceeds from the land to provide for Isabel from 1944 until her death. After the partido, but before Isabel died, the Trust Territory administration issued T.D. 325, which stated that the land belonged to Isabel. This was the first written record of ownership of the Unginao land.

Maria claimed that no partido occurred and that she was entitled to the Unginao property. The Supreme Court ruled that it was consistent with Chamorro custom for a wife’s property to be distributed during partido, that there was sufficient proof that a partido had occurred, and that pursuant to the partido, Corbiniano was entitled to the Unginao land.

**Estate of Aldan, 5 NMI 50 (1991)**

Manuel Fausto Aldan died without a will on March 21, 1971, and his wife Cecilia died eight months later. The estate was administered by one of the couple’s four legitimate children, who divided it amongst herself and her three siblings. It turned out, however, that Manuel had two illegitimate children who were born out of wedlock and thus were not heirs of Cecilia. These two children sought a share of the inheritance, but the administratrix denied their claims.

When the matter came before the probate court it ruled that half of the estate must be given to Manuel’s heirs (which included his illegitimate children) and the other half to Cecilia’s heirs. On appeal, the Supreme Court rejected this distribution. Noting that the Commonwealth was not a community property jurisdiction in 1971, the Court applied Chamorro customary law as it existed at that time. The Court held that under Chamorro custom, when Manuel died his property vested in his children, not in his wife, and that Cecilia’s children were to provide for her needs for the remainder of her life. Accordingly, the property in question had descended to Manuel’s six heirs upon his death, and was divided equally among all of his children.

**Estate of Lairopi, 2002 MP 10**

This dispute arose from the distribution of the estate of Francisca Lairopi, a Carolinian woman who died before World War II. The post-war Land Claims Commission declared her heirs owners of certain lands, and a later commission determined that compensation was due for three parcels of land spoiled during the war. When these parcels were included in the probate estate as Carolinian Lands, two of Francisca’s granddaughters objected, claiming that they were the sole landowners and that the land should not pass via Carolinian custom.

It is settled law in the Commonwealth that Carolinian custom guides the distribution of the estate of a Carolinian person who dies without a will. Accordingly, the Supreme Court ruled that where the original landowner is Carolinian, the court will distribute the probated estate in accordance with Carolinian custom unless
the original owner clearly decides to depart from such custom. The Supreme Court found that the land had been used in a manner consistent with Carolinian custom, and affirmed the Superior Court’s ruling including the lots in the estate probate.

In re Andres G. Macaranas, 2003 MP 11

Three children were raised by their grandparents under the Chamorro custom of poksai. Their grandfather died without a will and without having performed a partido—a Chamorro custom whereby the father calls his family together and outlines the division of property among his children. The Superior Court ruled that even though the children were pineksai—persons who are raised under poksai—they were not entitled to inherit as customarily adopted children from their grandfather’s estate. The Supreme Court disagreed, and ruled that under the Northern Mariana Islands Probate Law, children who are adopted pursuant to local custom inherit from their adoptive parent’s estate in the same manner as the parent’s natural children. The Court ruled that the three children were therefore entitled to inherit from their grandfather’s estate.

Local Issues

Borja v. Goodman, 1 NMI 225 (1990)

Pedro T. Borja sued the Marianas Variety newspaper after it published an article stating that a man named Pedro T. Borja had been found guilty of sexual abuse of a child. Borja had the same name as the convicted sex offender and sued for defamation, arguing that his reputation had been damaged. Borja argued that the newspaper should have published the address of the sex offender so readers could differentiate between himself and the convicted man. The Commonwealth Trial Court disagreed, finding that there was no evidence that the newspaper knew before publishing the story that there were two men with the name “Pedro T. Borja.” Borja appealed, and the Supreme Court ruled that the Marianas Variety was not required to publish the felon’s address, and that the paper was not at fault, as it accurately reported the conviction based on publicly-accessible court documents, which did not include the convicted felon’s address.

Ada v. Sablan, 1 NMI 415 (1990)

This case clarified the ownership status of property acquired during marriage. When Joseph Ada filed for divorce from Elisa Sablan, Elisa asked the Superior Court to divide property acquired during the marriage. There was no divorce among ancient Chamorros as the term is understood today, and the Commonwealth had no laws establishing the ownership status of property acquired during marriage. The Superior Court thus looked to legal sources outside the Commonwealth and determined that a wife had no property interest in marital property. The Supreme Court reversed, finding that such a rule discriminated on the basis of gender and was contrary to both Chamorro custom and the CNMI Constitution. The Supreme Court held that property acquired during marriage is marital property, must be fairly divided, and that if a party wished to exclude property from this division then he or she must prove that the property belonged solely to the person seeking exclusion.
When the U.S. Congress passed 48 U.S.C. § 1681(b), which authorized the Inspector General of the U.S. Department of the Interior (“IG”) to audit the local tax system of the Commonwealth, two citizens, Herman Sablan and Antonio Salas, sued the Commonwealth government to prevent the release of their tax returns and related information to the IG.

The Superior Court assumed that 48 U.S.C. § 1681(b) applied in the Commonwealth and that the IG was a party essential to the case. The Superior Court dismissed the citizens’ case for failure to join the IG as a party. On appeal, the Supreme Court held that 48 U.S.C. § 1681(b) violated the Covenant. The Covenant outlines the terms of the political union between the Commonwealth and the U.S. and its essential terms cannot be altered without the mutual consent of both parties. Thus, the Covenant limits the power of U.S. law, including the U.S. Constitution, within the Commonwealth, where its terms run contrary to the Covenant. The Supreme Court ruled that because 48 U.S.C. § 1681(b) infringed upon the Commonwealth’s right of self-government as defined in the Covenant, the IG had no authority to audit the CNMI tax system unless the Commonwealth government consented. This meant that the IG was not indispensable and that the case could be heard without the IG as a party. The Supreme Court thus reversed the Superior Court's findings.

Public Lands and Land Alienation

MPLT v. MPLC, 2 CR 870 (1986)

Under the CNMI Constitution, public lands are managed by the Marianas Public Lands Corporation (“MPLC”), and any income from those lands is held by the Marianas Public Lands Trust (“MPLT”). In 1975, the U.S. government leased 17,799 acres on Tinian from the CNMI; however, some of that land was still in private possession at the time of the lease. When the MPLC chose to use the rent money to purchase the land from the individual owners, the MPLT sued, claiming that the rent money should go to the Trust, and that money to purchase land must come from the CNMI government. The Appellate Division of the U.S. District Court agreed, holding that money used in acquiring land must come from the CNMI government, rather than either the MPLC or MPLT.

Wabol v. Muna, 2 CR 963 (1987)

A property owner entered into a fifty-year lease agreement with a corporation (PGI), and some alleged co-owners of the property sued to have the lease agreement invalidated. According to Article XII of the CNMI Constitution, long-term acquisition of real estate is restricted to persons of Northern Marianas descent. Article XII defines “long-term” as more than forty years and declares that corporations shall be considered “persons” of Northern Marianas descent if they are incorporated in the Commonwealth, have their principle place of business in the Commonwealth, and fifty-one percent of both its directors and owners of voting shares are of Northern Marianas descent. PGI did not meet these requirements because only one-third of its directors were of Northern Marianas descent and only fifty percent of the stock was owned by persons of Northern Marianas descent. On appeal, the Appellate Division of the U.S. District Court ruled that the lease agreement violated Article XII, causing the entire contract to be void at the time it was made. Relying on various policy
considerations involving the importance of land to the peoples of the CNMI, the court rejected the argument that Article XII violates the Fourteenth Amendment of the United States Constitution.

Aldan-Pierce v. Mafnas, 3 CR 327 (1988)

The defendant, a landowner named Leocadio C. Mafnas, entered into a contract with Antonia Villagomez that contained a written option agreement to purchase a plot of land. Villagomez then assigned her contractual rights to the plaintiff, Marian Aldan-Pierce. Mafnas, however, refused to honor the rights acquired by Aldan-Pierce, claiming that Aldan-Pierce was merely an agent of two attorneys who were interested in the land and not of Northern Marianas descent. Mafnas claimed that the attorneys gave Aldan-Pierce money with which to buy the property so that she would in turn lease the property to them, and that this violated Article XII, which restricts long-term acquisition of real estate to persons of Northern Marianas descent. Aldan-Pierce sued in order to have the courts force Mafnas to sell her the property as outlined in the written agreement.

The Commonwealth Trial Court granted summary judgment for Aldan-Pierce and the Appellate Division of the U.S. District Court affirmed. Mafnas’s attorney argued that the two attorneys were principals and Aldan-Pierce was their agent. The Appellate Division disagreed, finding that Aldan-Pierce retained a fee simple interest in the property, and that once Aldan-Pierce and the two attorneys executed the lease, their agent/principal relationship changed into that of lessor/lessee. Thus, any control the attorneys may have had over their agent ceased, and no Article XII violation occurred.

CNMI v Bordallo, 3 CR 805 (1989)

Under the Covenant, the Commonwealth agreed to make available for use by the United States 17,799 acres of land on Tinian. In order to acquire this land—the Commonwealth entered into agreements with landowners under which the Commonwealth obtained fee simple interests in the acquired lands, and the landowners received fee simple interests in other lands on Tinian, Saipan, or Rota. Some landowners, however, refused to partake in this land exchange, and so the Commonwealth seized their land and paid the market price as determined by the Commonwealth Trial Court. Leonora F. Bordallo, a landowner, sued, contesting the legality of the government’s actions.

The Appellate Division of the U.S. District Court upheld the Commonwealth’s eminent domain power, ruling that Article XIII of the CNMI Constitution permitted the Commonwealth to acquire private property when necessary to accomplish a public purpose. The Appellate Division further ruled that even though the Commonwealth was not required to turn over a fee simple interest to the United States, the Commonwealth had discretion to acquire a fee simple interest in the condemned land.

Matsunaga v. Matsunaga, 2006 MP 25

Douglas F. Cushnie, an attorney, challenged the constitutionality of a statute forbidding attorneys from charging more than a twenty-percent contingency fee in cases involving transfer of land under Article XII of the CNMI Constitution. Article XII provides that only citizens of Northern Marianas descent may obtain long-term
interests in real property within the Commonwealth. Cushnie argued that the statute interfered with his right to enter into private contracts. The Superior Court agreed and found the statute restricting contingency fees to be unconstitutional.

The Supreme Court disagreed and ruled that the statute limiting attorney fees was constitutional. In determining whether the statute unlawfully interfered with private contracts, the Court asked whether the law operated as a substantial impairment of the contractual relationship. The Court found that while the statute did impair an attorney's right to contract, the limitations were not substantial because the statute provided for adequate compensation. The Supreme Court also acknowledged that minor impairment would be tolerated given the legislature's goals of stabilizing the real estate market and protecting CNMI citizens.

DPL v. Commonwealth, 2010 MP 14

The Secretary of the Department of Public Lands, and the Attorney General on behalf of the Commonwealth government, submitted a certified question concerning the constitutionality of Public Law 16-31, which required the Department of Public Lands (“DPL”) to satisfy land compensation judgments out of the Department’s operating budget. The parties requested that the Court address the following question: “To what extent is Article XI of the NMI Constitution a restriction on Legislative action, and is Public Law 16-31 constitutional?”

Money received from leases and other transfers of public lands is constitutionally required to be transferred by DPL to the Public Land Trust to hold in trust for the benefit of people of Northern Marianas descent. The Court explained that NMI Constitution drafters made clear that the Marianas Public Land Trust (“MPLT”) would receive the funds generated from public lands even after the Marianas Public Land Corporation dissolved. The Court further explained that if one of the functions of the MPLT is to receive the funds from public lands, then any attempt by the legislature to spend those funds before they reached the Trust would infringe upon Article XI § 6 of the CNMI Constitution, and frustrate the framers’ intent to utilize public lands for the best interest of the people of the Commonwealth. Accordingly, the provision in Public Law 16-31 requiring the payment of land compensation judgments out of funds derived from public lands conflicted with Article XI § 6 and was ruled unconstitutional.

Conclusion

Judicial opinions are critical to a fully functioning judiciary. They resolve controversial matters for the litigating parties, provide legal guidance to the public and form the basis for future court decisions. The landmark cases discussed in this chapter demonstrate the evolution of Commonwealth jurisprudence, and reflect the vitality of the Commonwealth judiciary. Most importantly, they provide a necessary legal foundation that helps ensure an effective and independent judiciary for years to come.
Current Commonwealth Supreme Court Justices

Miguel S. Demapan
Chief Justice
July 1999 to Present
Associate Justice
July 1998 to July 1999
Associate Judge
November 1992 to July 1998

Alexandro C. Castro
Associate Justice
July 1998 to Present
Presiding Judge
February 1993 to July 1998
Associate Judge
May 1989 to February 1993

John A. Manglona
Associate Justice
May 2000 to Present
Associate Judge
July 1998 to May 2000

The current justices have been serving the Supreme Court for over a decade.
Current Commonwealth Superior Court Judges

Robert C. Naraja  
Presiding Judge  
March 2003 to Present  
Associate Judge  
October 2001 to March 2003

David A. Wiseman  
Associate Judge  
January 2001 to Present

Ramona V. Manglona  
Associate Judge  
May 2003 to Present

Kenneth L. Govendo  
Associate Judge  
May 2003 to Present

Perry B. Inos  
Associate Judge  
September 2008 to Present
Former Supreme Court Chief Justices and Associate Justices

Jose S. Dela Cruz  
Chief Justice  
May 1989 to May 1995  
Associate Judge  
March 1985 to May 1989

Marty W.K. Taylor  
Chief Justice  
September 1995 to December 1998

Pedro M. Atalig  
Associate Justice  
February 1993 to December 1997  
Presiding Judge  
November 1991 to February 1993  
Special Judge  
January 1990 to November 1991

Jesus C. Borja  
Associate Justice  
October 1989 to February 1993

Ramon G. Villagomez  
Associate Justice  
May 1989 to December 1997  
Associate Judge  
February 1986 to May 1989
Former Commonwealth Superior Court Judges

Edward Manibusan  
Associate Judge – February 1993 to July 1998

Timothy H. Bellas  
Associate Judge – October 1995 to October 2001  
Special Judge – June 1992 to October 1995

Virginia S. Sablan Onerheim  
Associate Judge – February 1997 to February 2003

Juan T. Lizama  

Former Commonwealth Trial Court Judges

Robert E. Moore  
Associate Judge  
September 1979 to September 1985

Robert A. Hefner  
Presiding Judge  
1989 to 1991  
Chief Judge  
September 1979 to 1989

Herbert D. Soll  
Associate Judge February 1979 to September 1985
Pro Tem Justices

Commonwealth pro tem justices are appointed by the Chief Justice of the Supreme Court. Current and former pro tem justices are:

Arthur R. Barcinas
Associate Judge, Guam Superior Court

Timothy H. Bellas
Former Associate Judge, CNMI Superior Court

Richard H. Benson
Former Associate Justice, Supreme Court, Federated States of Micronesia

Michael J. Bordallo
Associate Judge, Guam Superior Court

Jesus C. Borja
Former Associate Justice, CNMI Supreme Court

F. Philip Carbullido
Current Chief Justice and Former Associate Judge, Guam Supreme Court

Benjamin J.F. Cruz
Former Chief Justice and Associate Justice, Guam Supreme Court

Alberto C. Lamorena III
Presiding Judge, Guam Superior Court

Edward Manibusan
Former Presiding Judge, CNMI Superior Court

Joaquin V.E. Manibusan, Jr.
Former Associate Judge, Guam Superior Court

Katherine A. Maraman
Associate Justice, Guam Supreme Court

Virginia S. Sablan-Onerheim
Former Associate Judge, CNMI Superior Court

Vernon P. Perez
Associate Judge, Guam Superior Court

Kathleen M. Sali
Associate Justice, Supreme Court, Republic of Palau

Peter C. Siguenza, Jr.
Former Chief Justice, Guam Supreme Court

Herbert D. Soll
Former Associate Judge, Commonwealth Trial Court

Anita A. Sukola
Associate Judge, Guam Superior Court

Robert J. Torres, Jr.
Current Associate Justice and Former Chief Justice, Guam Supreme Court

Frances M. Tydingco-Gatewood
Former Associate Justice, Guam Supreme Court

Steven S. Unpingco
Associate Judge, Guam Superior Court

Special Judges

Prior to November 1997, special judges were appointed by the Governor and confirmed by the Senate to assist the Commonwealth courts whenever necessary. The special judges, appointed to serve a term of six years, were:

Pedro M. Atalig
(Sworn in as Presiding Judge on November 7, 1991)

Timothy H. Bellas
June 26, 1992 – October 21, 1995
(Sworn in as Associate Judge on October 21, 1995)

Benjamin J.F. Cruz

Larry L. Hillblom
November 17, 1989 – May 21, 1995

Edward C. King
March 11, 1991 – March 10, 1997

Rexford C. Kosack
December 13, 1989 – December 12, 1995

Alberto C. Lamorena III
May 12, 1995 – May 11, 2001

Juan T. Lizama
September 29, 1995 – July 9, 1998
(Sworn in as Associate Judge on July 17, 1998)

Jane E. Mack
May 26, 1993 – May 25, 1999

Vicente T. Salas

Michael A. White
October 5, 1995 – October 2, 2001

David A. Wiseman
September 22, 1995 – March 8, 2001
(Sworn in as Associate Judge on March 14, 2001)
Former Judges and Justices
Mariana Islands District Court • Community Court

Saipan
Juan M. Ada
Ignacio V. Benavente
Olympio T. Borja
Associate Judge, Mariana Islands District Court (1962 – 1963)
Francisco R. Cruz
Vicente E.D. Deleon Guerrero
Associate Judge and Special Judge (1951 – 1955)
Elias P. Sablan
Associate Judge, Mariana Islands District Court
Associate Judge, Saipan Community Court (1947 – 1955)
Felipe A. Salas
Associate Judge, Commonwealth Trial Court (1978)
Presiding Judge, Mariana Islands District Court (1975 – 1978)
Associate Judge, Mariana Islands District Court (1974 – 1975)
Jose A. Sonoda
Associate Judge, Mariana Islands District Court

Rota
Andres C. Atalig
Jose A. Calvo
Fortunato T. Manglona
(1972 – 1974)
Santiago M. Manglona
Associate Judge, Rota District Court (1955 – 1957)
Presiding Judge, Rota District Court (1957)
Associate Judge, Mariana Islands District Court
Tomas C. Mendiola
(1952)
Melchor S. Mendiola
Associate Judge, Rota Community Court

Tinian
Joaquin C. Aldan
Associate Judge, Tinian Community Court
Freddy V. Hofschneider, Sr.
Henry V. Hofschneider
Associate Judge, Tinian Community Court (1948 – 1953)

While effort has been made to make this list as complete as possible, some dates of service are not included and some judges from the early Trust Territory days may not be included.
Mariana Islands District Court • Community Court

Jose A. Sonoda
Saipan

Fortunato T. Manglona
Rota

Melchor S. Mendiola
Rota

Juan M. Ada
Saipan

Freddy V. Hofschneider, Sr.
Tinian

Santiago M. Manglona
Rota

Vicente E. D. Deleon Guerrero
Saipan

Olympio T. Borja
Saipan

Elias P. Sablan
Saipan

Felipe A. Salas
Saipan

Juan M. Ada
Saipan
Former Trust Territory High Court Justices and Judges

Edward P. Furber
Chief Justice (1948 – 1968)
Temporary Judge (February 1968 – August 1968)

Robert K. Shoecraft
Chief Justice (1968 – 1970)

Harold W. Burnett
Associate Judge (1968 – 1970)

Alex R. Munson

James R. Nichols
Associate Judge (1949 – 1955)

Pleaz William Mobley
Associate Judge (1956 – 1957)

Philip R. Toomin
Associate Judge (1958 – 1959)

Arthur J. McCormick
Associate Judge (1959 – 1961)

Paul F. Kinnare
Associate Judge (1961 – 1965)

Joseph W. Goss
Associate Judge (1965 – 1967)

D. Kelly Turner
Associate Judge (1967 – 1974)

Arvin H. Brown, Jr.
Associate Judge (1970 – 1978)

Robert A. Hefner
Associate Judge (1974 – 1979)

Donald C. Williams
Associate Judge (1975 – 1977)

Mamoru Nakamura
Associate Judge (1977 – 1981)

Ernest F. Gianotti
Associate Judge (1978 – 1984)

Richard I. Miyamoto
Associate Judge (1982 – 1987)

Former Trust Territory High Court Temporary Judges

Richard H. Benson

Robert Clifton

E. Avery Crary

P. Drucker

Christobal C. Duenas

Eugene R. Gilmartin

Anthony M. Kennedy

Alex Kozinski

Alfred Laureta

Jose C. Manibusan

Carl A. Muecke

Joaquin C. Perez

Paul D. Shriver

J. M. Spivey

Dickran M. Tevrizian

Jurists serving on the Trial Division and the Appellate Division of the Trust Territory High Court were referred to in court documents both as “Judge” and “Justice.” Trial court jurists are generally given the title of “Judge” while Supreme Court jurists are given the title of “Justice.”
Section 401 of the Covenant established the District Court for the Northern Mariana Islands with jurisdiction in cases involving violations of federal law and the U.S. Constitution. The District Court also sat as a local court in cases involving trial by jury and as an appellate court in local matters. In 1989, the Commonwealth legislature passed the Judicial Reorganization Act, creating the CNMI Supreme Court and renaming the CNMI Trial Court as the CNMI Superior Court. The Act transferred jurisdiction over all “local matters” from the U.S. District Court to the CNMI courts. The District Court originally conducted business in the Dai Ichi Hotel and has since moved to its present location in the Horiguchi Building.

Judges and Justices from the CNMI and Guam attend the swearing in of Associate Justice John A. Manglona in June 2000. Front row (from left to right): Associate Justice Alexandro C. Castro, Chief Justice Miguel S. Demapan, Associate Justice John. A. Manglona. Back row (from left to right): Guam Associate Judge Frances Tydingco-Gatewood, Guam Presiding Judge Alberto C. Lamorena III, Guam Associate Judge Benjamin J.F. Cruz, Guam Chief Justice Peter C. Siguenza, Jr., Associate Judge Juan T. Lizama, Associate Judge Edward Manibusan, Associate Judge Virginia S. Onerhiem, Associate Judge Timothy H. Bellas.
The Supreme Court justices and staff relocated to the Guma’ Hustisia in mid-1998, and the Superior Court moved in later that year.

The Supreme Court courtroom was designed with substantial input from the first three justices: Chief Justice Dela Cruz, Associate Justice Borja and Associate Justice Villagomez.
Delegation to the Pacific Judicial Council Conference held on Saipan in 1997. Attendees included jurists and legal staff from throughout Micronesia, including from the CNMI, Guam, Palau, Federated States of Micronesia (Yap, Chuuk, Pohnpei and Kosrae) and the Marshall Islands.

Inside the old Rota courthouse, which was replaced by the Rota Judicial Center in October 2005.
Construction of the Rota Judicial Center began in January 2004 with funding from that Capital Improvement Program for Rota.

Ribbon cutting ceremony for opening of Rota Judicial Center. Front row (left to right): Associate Justice John A. Manglona, Associate Justice Alexandro C. Castro, and Chief Justice Miguel S. Demapan.

The Rota Judicial Center has courtrooms for the Supreme Court and Superior Court and also provides offices for the Attorney General and Public Defender.


U.S. District Court for the Northern Mariana Islands Chief Judge Alex R. Munson (front row, center-left) and Chief Judge Alfred Laureta (front row, center-right) attending a ceremony in Courtroom A of the old Commonwealth courthouse in the Civic Center.
2010 – 2011 Supreme Court and Superior Court Law Clerks (left to right): Michael Stanker, Jordan Davis, Deanna M. Manglona, Michael Wilt, QuynhChi Nguyen, Steven Gardiner, Daniel Guidotti.

2011 Clerks of Court. Superior Court Clerk of Court Bernie A. Sablan (left) and Supreme Court Clerk of Court Jennifer Dockter (right).

2011 Director of Courts Tracy Guerrero and Deputy Director of Courts Sonia Camacho.
People of the Commonwealth of the Northern Mariana Islands benefit from a judiciary that is an independent and co-equal branch of government. This achievement did not develop overnight, but instead emerged after over five centuries of changing legal structures. Inhabitants of the Mariana Islands first lived under legal systems installed by Spain, Germany, and then Japan. Following World War II, laws were administered by the United States Naval Military Government and then as part of the Trust Territory of the Pacific Islands. This book chronicles these diverse legal systems and also examines the current Commonwealth judiciary. This unique focus affords readers a rarely-seen perspective of the court system in the Marianas, and an understanding of the efforts taken to ensure that the Commonwealth is a society governed by the rule of law.