M&C Fwd: Civil Service Commission Judgments; Meeting of December 30, 2019

1 message

Speaker's Office <speaker@guamlegislature.org>
To: Clerks Office <clerks@guamlegislature.org>
Cc: Rennae Meno <rennae@guamlegislature.org>
Bcc: Tina Muna Barnes <tinamunabarnes@gmail.com>

Thu, Jan 2, 2020 at 11:07 AM

01-01-2020	2:32 AM	12-30-19	Civil Service Commisison Judgments- Meeting of December 30, 2019.*	Civil Service Commission	35GL-20-1376

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagatna, GU 96910
T: (671) 477-2520/1
speaker@guamlegislature.org

35GL-20-1376
Speaker Tina Rose Muña Barnes

JAN 01 2020
Time 2:32 (✓)AM ( )PM
Received By:

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Gumai pribilehu yan konfedensia este siha na mensåhi. Solo espesiåtmente para hágu ma entensioña pat ma aturisa para unribisi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespåtcha. Yanggen lachi rinisibu-mu nu este na mensåhi , put fabot ago' guatu gi I numa'huyong gi as speaker@guamlegislature.org yan despues destrosa todu siha I kopian mensåhi. Si Yu'os ma'åse'.

---------- Forwarded message ---------
From: **Office of Senator Shelton Guam Legislature** <officeofsenatorshelton@guamlegislature.org>
Date: Wed, Jan 1, 2020 at 2:32 AM
Subject: Fwd: Civil Service Commission Judgments; Meeting of December 30, 2019
To: Speaker's Office <speaker@guamlegislature.org>

Good morning Speaker Barnes:

Forwarding for your information.

Regards.

Evelyn Claros

2020 JAN -2 AM 11:44

---------- Forwarded message ---------
From: **Susan Corbin** <susan.corbin@csc.guam.gov>
Date: Mon, Dec 30, 2019 at 7:32 PM
Subject: Civil Service Commission Judgments; Meeting of December 30, 2019
To: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>

Hafa Adai Senator Shelton: Please find attached the judgments executed by the Civil Service Commission in its meeting of December 30, 2019. This is mandated under 4 GCA, Section 4403. Thank you.

Si Yu'os Ma'åsé
Susan Corbin
Legal Secretary
Civil Service Commission
Tel: 647-1855

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Si Yu'os Ma'åse,

Office of the People • Senator Amanda L. Shelton
Legislative Secretary & Chairwoman of the Committee on Higher Education and the Advancement of Women, Youth, and Senior Citizens

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

Guam Congress Building
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4 attachments

- **Clarice Peredo vs. Guam Behavioral Health & Wellness Center; CSC 18-GRE04.pdf**
  54K
- **Leonora Leon Guerrero vs. Port Authority; CSC 13-AA11T SP.pdf**
  92K
- **Francine Rocio vs. Port Authority; CSC 12-AA29T SP.pdf**
  48K
- **Robert Miranda vs. Department of Parks & Recreation; CSC 17-AA01T.pdf**
  112K

1376

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:	**GRIEVANCE APPEAL CASE NO.: 18-GRE04**
CLARICE PEREDO,	
Employee,	**ORDER AFTER HEARING**
vs.	
GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER,	
Management.	

This matter came before the Civil Service Commission (CSC) September 12, 2019, on Managements' multiple motions. Commissioners present were Chairman Luis R. Baza, Vice-Chairman Juan Calvo, Commissioner Priscilla T. Tuncap, Commissioner John Smith, and Commissioner Emilia F. Rice. Present for Management were Acting Director Carissa E. Pangelinan, with her attorney, Assistant Attorney General Donna Lawrence. Employee was present with her lay representative, Robert Koss.

Chairman Baza noted that most of the motions presented by Management had already been ruled on by the Commission.

The Commission considered Management's motion to strike GFT's filing of July 10, 2019, which included a personal attack on Assistant Attorney General Lawrence.

The Commission found the filing inappropriate and defamatory of opposing counsel. The Commission voted 5 to 0 to **strike the pleading from the record.**

Management moved to dismiss the Grievance on the grounds that the CSC does not have subject matter jurisdiction because the CSC does not have jurisdiction to decide classification issues. Four members of the Commission found that this is a question of slotting (that is to say a question of what step to place the returning employee into), not a classification issue. Employee was returned to the same classification, but to a lower step within the classification. Commissioner Tuncap ruled that the Commission did not have jurisdiction because this is an appeal of adverse personnel action citing Department of Administration Personnel Rules and Regulations 12.301 F. which excludes appeals of adverse personnel actions. By a vote of 4 to 1 (Commissioner Tuncap dissenting) the Commission **DENIED** the motion to dismiss. Chairman Baza continued the hearing on the merits to allow new the Commissioners to review the video of prior hearings.

SO ORDERED THIS 30 **day of** December **2019.**

(resigned)
LUIS R. BAZA
Chairman

JUAN K. CALVO
Vice-Chairman

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

EMILIA F. RICE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

LEONORA LEON GUERRERO,

Employee,

vs.

PORT AUTHORITY OF GUAM,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 13-AA11T SP

JUDGMENT OF DISMISSAL

The Civil Service Commission hereby dismisses the above captioned case with prejudice pursuant to the signed Stipulation Judgment of Settlement, attached hereto.

SO ADJUDGED THIS 30 **day of** December **2019.**

JUAN K. CALVO
Vice Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENAVENTE
Commissioner

Joseph B. McDonald
Attorney for the Port Authority of Guam
1026 Cabras Highway, Suite 201
Piti, Guam 96925
Telephone: (671) 477-5931/35
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CIVIL SERVICE COMMISSION
RECEIVED
DEC 26 2019
GOVERNMENT OF GUAM

IN THE CIVIL SERVICE COMMISSION

GOVERNMENT OF GUAM

IN THE MATTER OF: LEONORA V. LEON GUERRERO, Employee, vs. PORT AUTHORITY OF GUAM, Management	ADVERSE ACTION APPEAL NO. 13-AA11T-SP **STIPULATED JUDGMENT OF SETTLEMENT**

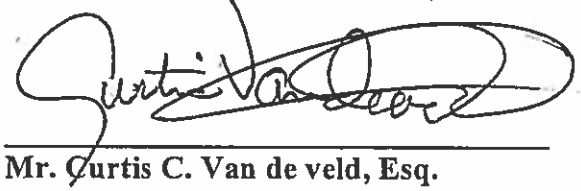
COME NOW Management-Appellee PORT AUTHORITY OF GUAM, through its DEPUTY GENERAL MANAGER LUIS R. BAZA, duly authorized by board of directors to enter into and execute upon settlement, and Employee-Appellant LEONORA V. LEON GUERRERO, though her counsel Curtis Vandeveld, Esq. of **THE VANDEVELD LAW OFFICES, P.C.**, to jointly stipulate that the terms of a private undisclosed Settlement Agreement between the parties shall be entered as the Judgment of the Civil Service Commission in the above captioned action, which Settlement fully and with finality resolves the underlying adverse action appeal by Employee against Management and the adverse action taken by Management against Employee. By this reference, the terms of the undisclosed Settlement Agreement are

incorporated into this Judgment, though the Settlement Agreement shall remain undisclosed unless and until either party shall in good faith seek enforcement of the terms of the Settlement Agreement or otherwise is obligated to disclose pursuant to law or lawful order.

The Parties herein stipulate to rescission of the adverse action against Employee and to reinstate Employee to employment with the Port Authority of Guam as provided in the Settlement Agreement according to its terms. The Parties further stipulate that the Settlement Agreement fully and with finality resolves the underlying adverse action appeal but that the Commission shall retain jurisdiction to enforce the Parties' respective rights under the Settlement Agreement, should such circumstance arise.

SO STIPULATED:

Employee: LEONORA LEON GUERRERO
THE VANDEVELD LAW OFFICES, P.C.



Mr. Curtis C. Van de veld, Esq.

Management: PORT AUTHORITY OF GUAM



Mr. Luis R. Baza,
Deputy General Manager

JUDGMENT OF THE CIVIL SERVICE COMMISSION

THIS MATTER coming before the Civil Service Commission based on the agreement of the parties set forth above and good cause therein shown, the Civil Service Commission hereby enters Judgment rescinding the adverse action taken against Employee LEONORA V. LEON GUERRERO and incorporating the undisclosed terms of the parties' Settlement Agreement into this Judgment. This Judgment fully and with finality resolves the adverse action appeal filed by Employee. The Civil Service Commission retains jurisdiction to enforce the parties' Settlement should such circumstance arise.

SO ORDERED: THIS 30 day of December 2019.

Mr. Juan K. Calvo, Chairman

Ms. Priscilla T. Tuncap, Commissioner

John Smith, Commissioner

~~Catherine Gayle~~, Commissioner

Emilia Rice, Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF:

FRANCINE ROCIO,

Employee,

vs.

PORT AUTHORITY OF GUAM,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 12-AA29T SP

ORDER AFTER HEARING; RECONSIDERATION OF MOTION

This matter came on to be heard November 21, 2019, on Management's motion to reconsider the decision of the Civil Service Commission (Commission) to grant the three motions to dismiss filed by Employee. Commissioners present were Chairman Luis R. Baza, Vice-Chairman Juan K. Calvo, Commissioner Priscilla T. Tuncap, Commissioner John Smith, and Commissioner Emilia F. Rice. Present for Management were Director Rory J. Respicio, and his attorney Joseph B. McDonald. Employee was present with her counsel, Georgette Bello Concepcion.

The Commission heard argument from the parties and then deliberated. Vice-Chairman Calvo opined that the 60-day clock of 4 GCA §4406 started on October 16,

2012, as indicated in the Commission's decision and not the later date suggested by Management. Vice-Chairman Calvo also thought the Final Notice of Adverse Action was defective because it lacked specificity. Commissioner Tuncap voted in favor of Management. By a vote of 4 to 1 (Commissioner Tuncap dissenting), the Commission denied Management's Motion.

SO ORDERED THIS 30 DAY OF December, 2019.

(resigned)
LUIS R. BAZA
Chairperson

JUAN K. CALVO
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

EMILIA F. RICE
Commissioner

BEFORE THE
GUAM CIVIL SERVICE COMMISSION

BOARD OF COMMISSIONERS

IN THE MATTER OF:

ROBERT MIRANDA,

Employee,

vs.

DEPARTMENT OF PARKS AND RECREATION,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 17-AA01T

JUDGMENT OF DISMISSAL

The Civil Service Commission hereby dismisses the above captioned case with prejudice pursuant to the signed Stipulation of Settlement, attached hereto.

SO ADJUDGED THIS 30 **day of** December **2019.**

(resigned)
LUIS R. BAZA
Chairperson

JUAN K. CALVO
Vice-Chairperson

PRISCILLA T. TUNCAP
Commissioner

JOHN SMITH
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENVENTE
Commissioner

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CIVIL SERVICE COMMISSION
2:50 PM
RECEIVED
NOV 26 2019
GOVERNMENT OF GUAM
11/26/2019

BEFORE THE CIVIL SERVICE COMMISSION
GOVERNMENT OF GUAM

IN THE MATTER OF:	ADVERSE ACTION APPEAL CASE NO. **17-AA01T**
ROBERT MIRANDA, **Employee,**	
vs.	**STIPULATION OF SETTLEMENT**
DEPARTMENT OF PARKS AND RECREATION, **Management.**	

THIS STIPULATION OF SETTLEMENT AND AGREEMENT is by and between **ROBERT J. MIRANDA** (hereinafter "Employee") and the **DEPARTMENT OF PARKS AND RECREATION** (hereinafter "Management" or "the Government") as follows:

RECITALS

A. The Employee commenced an Adverse Action Appeal in the Civil Service Commission on or about January, 2017; and,

Doc. No. 35GL-20-1376.*
ORIGINAL

B. The parties desire to enter into this Settlement Agreement (hereinafter "Agreement") for this matter to provide for certain arrangements in full settlement and discharge of the Appeal in a fair and equitable means and upon the terms and conditions set forth herein.

C. The terms and conditions of said Agreement shall become operative upon execution of this Agreement.

NOW THEREFORE, for and in consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Purpose of Agreement**. Employee and Management acknowledge and agree that this Agreement is a Settlement and Compromise of the referenced matter. It is the intention of the parties by the execution of this Agreement to fully, finally and completely resolve all disputes between them regarding these matters, in the manner more specifically set forth in the terms of this Agreement that follow.

2. **Employee's Obligation**.

   2.1 Employee agrees to submit a letter of resignation effective January 26, 2017.

   2.2 Employee agrees that he waives all reemployment rights, privileges, and credits, and waives all claims known and unknown against the Department of Parks & Recreation.

   2.3 Employee agrees there is no monetary compensation and there will be no award of attorney's fees, costs, or benefits associated with this settlement.

   2.4 Employee agrees to dismiss his adverse action appeal with prejudice.

3. **Management's Obligation**.

   3.1 Management agrees that the Judgment of Dismissal will supersede the Notice of Final Adverse Action, and that Management shall accept the Employee's resignation retroactively to the date of termination.

4. **Performance Accepted**. The parties agree and acknowledge: (a) that they accept performance of their obligations specified in this Agreement as a full and complete compromise of matters involving disputed issues; and (b) that the negotiations for this settlement (including all statements, admissions, or communications by the parties or their attorneys or representatives) shall not be considered by any of said parties unless fraudulent; and

5. **Additional Documents**. All parties agree to cooperate fully and execute any and all supplementary documents and take all additional actions that may be necessary as appropriate to give full force and effect to the basic terms and intent of this Agreement within thirty (30) days of its approval by the Civil Service Commission.
6. **Independent Advice of Counsel**. Each party represents and declares that it has received independent advice from its respective attorneys and representative with respect to the advisability of making the settlement provided for herein and with respect to the advisability of executing this Agreement.
7. **Voluntary Agreement**. Each party represents and declares that it has carefully read this Agreement, that is knows the contents of this Agreement, and that it has signed the same freely and voluntarily.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written by their respective names.

SO STIPULATED:

Employee:

11/23/19

Robert J. Miranda

Date: _____

Department of Parks & Recreation
("Management" or "the Government")

RICHARD Y. YBANEZ, Director

Date: 11/13/19

OFFICE OF THE ATTORNEY GENERAL
Leevin Taitano Camacho, Attorney General

ROBERT KOSS, Lay Representative

Date: 11/27/19

MATTHEW E. WOLFF
Attorney for Management

Date: Nov-13, 2019