



## **MEMORANDUM OF POINTS AND AUTHORITIES**

The Hearings Officer signed an Order Granting Appellant's Request for Special Accommodation for Robert Kono on Wednesday, October 13, 2010. Appellant's Counsel did not receive or have notice of the order until Thursday, October 14, 2010 (today). The Order requires Appellant only to "serve prior notice to the other parties in this matter of the deposition of Robert H. Kono indicating the time and place of said deposition."

Appellant's counsel coordinated with Mr. Kono, Guam Memorial Hospital, and stenographer George Castro in order to schedule the video deposition. The deposition was scheduled at 2:00 PM on Friday, October 15, 2010. Appellant's counsel called all attorneys involved to notify them of the time and date of the deposition. A Notice of Deposition was filed with the Office of Public Accountability and served on all parties as required in the Order Granting Appellant's Request for Special Accommodation.

After the deposition was scheduled, Appellee's counsel, Rebecca Perez Santo Tomas called Appellant's counsel, Rawlen Mantanona and informed him she had a court hearing at the same time. Rebecca Perez Santo Tomas demanded written evidence that Mr. Kono would not be available on Saturday and Rawlen Mantanona informed her there is no such written evidence. See Declaration of Rebecca Perez Santo Tomas.

Lujan Aguigui and Perez, Appellee's retained law firm, employs nine attorneys. Exhibit "A." Since Lujan Aguigui and Perez LLP employs nine attorneys, and Rebecca Perez Santo Tomas has a scheduling conflict, she can request that another attorney at her firm attend her previously scheduled court hearing, so she may attend the deposition. Alternatively, she can request that another attorney in her firm attend this deposition, so

she can attend her court hearing. The Hearing Officer's order is an "Order Granting Appellant's Request for Special Accommodation for Robert H. Kono." The purpose is to accommodate Robert Kono, who is suffering from a serious medical condition and may leave island any day for urgent medical care. Mr. Kono himself does not know when he will be able to leave. The Hearing Officer did not require Appellant to coordinate with Rebecca Perez Santo Tomas, or to set the deposition according to her schedule. The Order's purpose is to accommodate Mr. Kono, not Appellee's legal counsel.

The Order only required Appellant to "serve prior notice" of the deposition. Appellant served all parties with the Notice of Deposition. All parties, with the exception of Rebecca Perez Santo Tomas, have no objection with the scheduled deposition date, time, and location.

Appellant respectfully requests that the Hearings Officer deny Appellee's Motion to Reschedule Deposition due to the urgency and uncertainty of Mr. Kono's medical situation, as well as the number of other attorneys employed at Appellee's law firm and the likelihood that at least one of them would be able to cover either the deposition or the court hearing.

Respectfully submitted this 14 day of October, 2010.

**CABOT MANTANONA LLP**  
*Attorneys for Harbor Center Guam*

By:

  
**SARAH STROCK**

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# LUJAN AGUIGUI & PEREZ LLP

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EXHIBIT "A"