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Attorneys for Defendants

The Guam Election Commission, John Blas,
John Taitano, Alice Taijeron, Joseph Mesa,
Joshua Tenorio, Martha Ruth, John Terlaje
and Robert Cruz

IN THE DISTRICT COURT OF GUAM

CARL T.C. GUTIERREZ, FRANK AGUON, JR.,
and JOHN and JANE DOE CITIZEN PLAINTIFFS
1-1000,

Plaintiffs,

vs.

THE GUAM ELECTION COMMISSION, JOHN
BLAS, JOSHUA TENORIO, JOSEPH MESA,
ALICE TAIJERON, JOHN TERLAJE, ROBERT
CRUZ, MARTHA RUTH, JOHN TAITANO,
EDWARD B. CALVO, RAY TENORIO, and JOHN
and JANE DOE DEFENDANTS 1-1000,

Defendants.

CIVIL CASE NO. CV10-00031

**REQUEST FOR JUDICIAL NOTICE
(Federal Rules of Evidence 201)**

Defendants The Guam Election Commission and John Blas (collectively "GEC Defendants"), by and through their undersigned counsel of record, hereby request that the Court take judicial notice of the attached document in support of GEC Defendants' Motion to Dismiss Amended Complaint.

Under the Federal Rules of Evidence 201, "[a] court may take judicial notice of 'matters of public record.'" *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001); *In re Zoran Corp. Derivative Litigation*, 511 F.Supp.2d 986, 1001 (N.D.Cal. 2007) ("court may take judicial notice of public filings"); *see also Cantu v. Resolution Trust Corp.*, 4 Cal. App. 4th 857, 877 (1992) (court "may properly take judicial notice of a party's earlier pleadings and positions as well as established facts from both the same and *other* cases") (emphasis in original). Moreover, under Federal Rules of Evidence 201(b)(2), a judicially noticed fact is one "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

Further, where a document is incorporated by reference in a complaint, but is not physically attached, the entire document may be considered by the court if it is central to the claim and no party questions its authenticity. *See Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006); *In re Silicon Graphics Inc. Securities Litigation*, 183 F.3d 970, 986 (9th Cir. 1999) ("[the incorporation by reference doctrine] permits a district court to consider documents 'whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the [plaintiff's] pleading,'" quoting *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994)); *In re CNET Networks, Inc.*, 483 F. Supp. 2d 947, 953-954 (N.D. Cal. 2007) ("documents referenced in [] complaint ... are the proper subjects of judicial notice"); *In re Cornerstone Propane Partners, L.P.*, 355 F. Supp. 2d 1069, 1076-1077 (N.D. Cal. 2005).


Carl T.C. Gutierrez, et al., v.
The Guam Election Commission, et al.
Request for Judicial Notice
(Federal Rules of Evidence 201)
Civil Case No.: CV10-00031

Attached hereto as **Exhibit 1** is a true and correct copy of the November 6, 2010 Certified Official Results of the Guam Gubernatorial Election held on November 2, 2010 and referenced in Plaintiffs' November 23, 2010 Amended Complaint at ¶ 30.

Dated this 19th day of December, 2010.

CABOT MANTANONA LLP
Attorneys for Defendants,
The Guam Election Commission,
John Blas, John Taitano,
Alice Taijeron, Joseph Mesa,
Joshua Tenorio, Martha Ruth,
John Terlaje and Robert Cruz.

By:



CESAR C. CABOT

CCC:me

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SUMMARY REPORT

GUAM
GENERAL ELECTION
NOVEMBER 2, 2010

OFFICIAL RESULTS

RUN DATE:11/06/10 08:07 PM

REPORT-EL45

PAGE 001

VOTES PERCENT

GOVERNOR AND LIEUTENANT GOVERNOR
VOTE FOR 1

(WITH 58 OF 58 PRECINCTS COUNTED)

CALVO / TENORIO (REP)	20,066	50.25
GUTIERREZ / AGUON (DEM)	19,579	49.03
WRITE-IN VOTE (REP)	164	.41
WRITE-IN VOTE (DEM)	121	.30
Total	39,930	
Over Votes	50	
Under Votes	654	

EXHIBIT 1