

STRATEGIC PLAN

JUDICIARY OF THE REPUBLIC OF PALAU

Promulgated April 17, 2009

MISSION OF THE JUDICIARY

The Judiciary's purpose is to preserve and enhance the rule of law by providing a just, efficient, and accessible mechanism for resolving disputes. The Judiciary will interpret and apply the law, as modified by custom and tradition, consistently, impartially, and independently to protect the rights and liberties guaranteed by the laws and Constitution of the Republic of Palau.

PURPOSE OF THE STRATEGIC PLAN

The Strategic Plan states the goals and policy directions of the judicial system, sets forth the values that are vital to the effective administration of justice, and provides initial implementation strategies to guide the priorities and work of judicial employees over the next few years.

OUR VISION

The courts of the Republic of Palau will provide justice for all while maintaining the highest standards of performance, professionalism, and ethics. Recognizing the inherent dignity of every person who participates in the justice system, the Judiciary will treat each participant with respect and will strive to make the process understandable, affordable, and efficient. Through the thoughtful, impartial, and well-reasoned resolution of disputes, the Judiciary will enhance public trust and confidence in this independent branch of government.

ORGANIZATIONAL ASSESSMENT

In order to critically assess its ability to improve performance in the future, the Judiciary must identify its current strengths, weaknesses, opportunities, and obstacles.

Structure: The Judiciary of the Republic of Palau includes the Supreme Court, the Land Court, and the Court of Common Pleas. The Marshal Division and probation department support the Judiciary's core functions. The Judiciary is unified and has centralized administration. Although individual judicial officers are assigned to a particular court unit, all of the units share space in the courthouses in Melekeok and Koror and rely on the Clerk's Office for intake and docketing services. The Clerk's Office also provides translation and in-court services for all proceedings held in Koror. Continued improvements are needed to ensure regular and open communication among the units and

to provide staffing mechanisms that meet the needs of all courts and the two courthouses.

External Policies and Procedures: The Judiciary promulgates rules of procedure, codes of conduct, and litigation forms that are available to the public. These policies are updated and revised periodically. A regular review process should be established, and alternative means of distribution should be explored.

Internal Policies and Procedures: In addition to a detailed human resources manual, the Clerk's Office has policies that govern daily operations and guide employees when responding to inquiries. Many of these policies were developed while Eugene J. Murret was Administrative Director of the Judiciary between 1997 and 2005. Although the policies provide a sound foundation for judicial operations, the operations have changed over time and a systematic review and revision is needed. In addition, some of the internal policies should be made available to the public so that litigants and their counsel can ensure compliance and avoid unnecessary procedural delays.

Human Resources: The caliber of our judges and staff is the primary strength of the Judiciary. They are dedicated, diligent, knowledgeable, and compassionate and have a sincere desire to perform to the best of their abilities. The recent restructuring of the Clerk's Office allows it to provide assistance in a more efficient manner. There is a need, however, for all members of the Judiciary to critically evaluate existing processes and procedures with an eye towards improving daily operations. Employees should be encouraged to voice new ideas and supervisors/judges should not hesitate to test and implement those ideas whenever reasonable and practical.

Case Management: Technological advances in docketing and better file control in the Land Court have enabled the Judiciary to conduct workload, timing, and statistical analyses and to better understand and respond to delays in the system. Uniform case management processes should be developed in each court unit to ensure the efficient and predictable resolution of matters.

Technology and Communication: The Judiciary continues to update its technology and to implement technological improvements that will provide greater access and service to court staff and users. File sharing is now available between the two courthouses, and progress is being made on a Judiciary website. Unfortunately, the hardware in Koror is aging and there is a lack of uniformity between work stations that adversely impacts access and efficiency. The development and implementation of an electronic filing system, with web-based links to all filed documents, and a comprehensive e-mail system should be considered.

Courtroom Services: Translation and in-court services for the Supreme Court, the Court of Common Pleas, and the Land Court when sitting in Koror are provided by the Clerk's Office. Land Court hearings in Ngerulmud are staffed by the presiding judge's chamber secretary, who also serves as his or her courtroom clerk. At present, clerks in Koror are assigned to work with a particular judge or justice for one month. While this system is a significant improvement over the daily assignment system that was used in the past, permanent clerk assignments should be considered, particularly for the Court of Common Pleas, which has unique needs and demands.

Supreme Court: The four justices of the Supreme Court adjudicate both trial and appellate disputes. Trial Division cases are assigned by the Chief Justice after considering such factors as case load and potential conflicts of interest. If an appeal is taken, it will generally be handled by the other three justices unless a conflict exists, in which case a part-time or pro tem justice sits on the panel.

Land Court: The Land Court has four judges, two of whom are law-trained and may sit by designation on Appellate Division cases. The Olbil Era Kelulau ("OEK") recently extended the deadline by which title to the lands of Palau are to be adjudicated by the Land Court. Using statistical information from the newly-implemented electronic docketing system, the Land Court was able to justify its request for this extension and support recommendations for changes to the governing legislation. Every effort is being, and should continue to be, made to adjudicate all pending cases well before the new February 11, 2016, deadline.

Court of Common Pleas: The Court of Common Pleas handles a unique case load that includes small claims, misdemeanors, and citations. Because its forms, processes, hearings, and information needs are unlike those of the other court units, permanently assigning a single courtroom clerk to the Court of Common Pleas may improve both the operations of the unit and the job satisfaction of the assigned clerk.

Marshal Division: The Marshal Division provides 24 hour security for the courthouses, judicial officers, and visiting dignitaries. Marshals help probation officers monitor probationers, conduct home visits, and enforce curfew. The Marshal Division also serves court documents in Palau, including summons, warrants, and orders. Alternative, more cost-effective, methods of service should be considered.

Probation: Probation supervises and monitors those placed on probation by the Judiciary. The office generates pre-sentence and, where appropriate, monthly reports for court use. Only limited site visits are performed and virtually no pre-trial services are provided given the current staffing levels.

External Relations: The Judiciary has excellent relations with many of its external partners, particularly the Executive and Legislative branches of government. The Judiciary also has productive relationships with the Palau Bar, law enforcement agencies, and judicial systems from around the Pacific. Importantly, the Judiciary is able to pursue continuing legal education opportunities for itself and members of the bar and to obtain financial and administrative assistance for various projects. Areas for improvement include targeting appropriate granting resources and improving communication and cooperation with the bar.

STRATEGIC GOALS AND IMPLEMENTATION STRATEGIES

STRATEGIC GOAL # 1 To preserve and promote the rule of law and judicial independence in the Republic of Palau.

It is the role of the Judiciary to ensure the fair adjudication of disputes by an impartial and knowledgeable judge who decides cases based on the law and the facts presented by the parties. Fulfillment of this role requires an independent Judiciary. Judges must be free to exercise discretion in all aspects of judicial decision-making without bowing to political or public pressure or fearing the potential impact that a decision may have on their professional lives or on the Judiciary's funding. Judicial independence can exist only when the public and the other branches of government have confidence in and respect for the judicial system.

It is important that the public understand the role of the Judiciary in Palauan society, including both its powers and its limitations. Providing additional information about judicial operations will increase visibility and confidence. To that end, the Judiciary should:

Ensure that the Judiciary is consistently and authoritatively presented to the public as a co-equal branch of government. The development of the Judiciary's page on the government's internet site is an important first step in this process. The website should convey, among other things, the core values of the Judiciary, the importance of judicial autonomy, and the Judiciary's commitment to service.

Educate the public regarding the role and importance of an independent Judiciary. In addition to developing its website, the Judiciary should encourage courthouse visits by teachers and students and work with schools at all levels to offer classes/seminars on constitutional law

and the role of the courts.

Explore alternative ways to disseminate opinions, including posting key decision on the Court's website.

Communication and collaborative efforts between the co-equal branches of government are necessary for many reasons, including the development of effective public policies and the successful implementation of programs and services. The OEK plays an especially critical role because it enacts legislation under which the Judiciary operates and provides funding to carry out the Judiciary's constitutional and statutory responsibilities. The Chief Justice, as the head of the unified Judiciary, should continue to cultivate a respectful and productive partnership with the other branches of government and to take advantage of any and all opportunities to reinforce the position of the Judiciary as a co-equal, independent, and effective entity willing to work cooperatively for the people of Palau. In order to more effectively communicate with other branches of government, the Judiciary should:

Ensure that the role, function, and needs of the Judiciary are clearly understood by the Executive and Legislative branches. Increasing the amount of information available through the Judiciary's website will assist in this endeavor.

Support efforts to develop regular communication strategies between the branches of government. The publication of an annual State of the Judiciary message, in addition to the budget hearings, should be considered.

Public confidence that the Judiciary will decide matters in a fair and impartial matter cannot be assumed: such trust must be earned on a continuing basis. The Judiciary must be mindful of how its actions are perceived by the public and the other branches of government. In addition to the communication strategies mentioned above, the Judiciary should:

Establish objective evaluation and monitoring mechanisms for court performance. The electronic docketing system contains a wealth of data and statistical information that can be used to evaluate the case loads and progress of individual justices and judges. In addition, the use of customer surveys and comment forms may highlight areas that could be improved, as well as make the Judiciary more accountable to the population it serves.

Ensure the strictest possible compliance with the ethical rules governing the conduct of judges, particularly those related to conflicts of interest. Publicize the procedure for filing judicial misconduct complaints as well as the standards and processes used to evaluate such complaints.

Consider alternative case assignment methods, such as computer-generated models, that take account of the relative weight of cases and avoid potential conflicts of interest.

STRATEGIC GOAL # 2 To administer timely and efficient justice that is accessible to all.

Although the old adage “justice delayed is justice denied” is hyperbolic, delays in obtaining legal redress can be frustrating and, in some cases, prejudicial. Delays are caused by a number of factors, only some of which are within the Judiciary’s control. The geography of Palau, for example, makes it difficult for many Palauans to access the courthouses in Koror and Ngerulmud on a regular basis and often delays service and scheduling. In addition, cases sometimes fall into a form of stasis when attorneys and/or parties go off-island for extended periods of time. Other delays are caused by a lack of standardized processes or inefficiencies in the system and can be minimized by taking the following steps:

Develop and implement consistent case management systems for each judicial unit. The Land Court has implemented an *ad hoc* procedure to review and adjudicate uncontested land claims in a more efficient and uniform fashion. The Court of Common Pleas, with only one judicial officer, is able to achieve consistency even in the absence of written policies. Each Supreme Court Justice, on the other hand, has his or her own case management and scheduling procedures. Combining the best of these procedures in a coordinated effort to improve efficiency and consistency will not only reduce delays, but will also make the process more predictable for staff and litigants.

Evaluate case management procedures, rules of court, and court forms on an annual basis to identify and remove barriers to the efficient and timely resolution of disputes.

Identify and resolve cases in which no activity has occurred for more than one

year.

Conduct biannual reviews of how cases are processed, how paper and information flow through the court system, how resources are allocated, etc. Each department and unit should generate two or three proposals which, if implemented, would improve efficiency and effectiveness. The Clerk's Office, for example, could identify duplicative data entry requirements that could be streamlined with the assistance of the information systems department. Or the property department could make recommendations regarding maintenance schedules or contractor services. The Chief Justice or his designee should evaluate these biannual proposals and, after considering the resources available and the other needs of the Judiciary, implement any reasonable proposals that are likely to improve operational efficiency and effectiveness.

Continue to provide a wide range of court services in both Ngerulmud and Koror. Although the seat of the Republic is now located in Melekeok State, the Judiciary cannot ignore that a majority of the population it serves resides in Koror State. At least for the foreseeable future, providing efficient justice that is accessible to all will require continuing operations at both courthouses.

The Judiciary's electronic docketing system has greatly improved file retention and user access. In addition, the docketing system provides data and statistical information regarding court operations that will further promote accountability and efficiency. In order to ensure that the docketing system continues to serve the needs of the Judiciary, adjustments to the existing system and a willingness to adopt new technologies are necessary. The Judiciary should:

Review and, if necessary, redesign various elements of the existing docketing system to increase capabilities and improve performance. Each court unit and each position within that unit have suggestions regarding changes to the current docketing/calendaring systems that would make their jobs easier.

Evaluate each work station to ensure that all necessary network connections and software are available and to determine whether hardware needs to be replaced or upgraded. Bringing one or more of the information systems employees back to the Koror courthouse is strongly encouraged so that maintenance and review tasks can be performed in a timely manner.

Provide courtroom access to docket information and calendaring systems. Such access would improve the information available during court proceedings and allow the immediate entry of calendaring changes. If electronic filing and service are adopted in the future, courtroom access to these systems will allow the clerk to record oral rulings, such as the grant of a continuance, the resolution of motions, the acceptance of plea, etc., without the need to generate a paper order later in the day.

Investigate upgrades to the current docketing system. Providing links to scanned or .pdf versions of the documents listed would reduce delays, increase productivity, and improve the quality of information distributed to litigants. The Judiciary should consider making a read-only version of the dockets available on a public website.

Enable the public to conduct court business from remote locations. Technology is now available that would allow litigants to file documents, pay fees, and receive service electronically. Because the Judiciary serves a significant number of *pro se* litigants, traditional means of conducting court business should continue for the foreseeable future.

Investigate options for obtaining high speed internet access and a comprehensive electronic mail system. Further upgrades to the electronic docketing system will depend on the speed at which information can be transferred. Communication and collaboration between judicial officers and court employees would be greatly enhanced by an e-mail system that not only delivers inquiries, drafts, and directions in a timely fashion, but also stores the messages if the recipient is away from his or her desk and allows for future perusal and response as needed.

STRATEGIC GOAL # 3 To provide a judicial system where all participants are treated fairly and consistently.

Confidence in the judicial system stems from an individual's belief that he or she is being treated fairly and with respect. That confidence can be undermined when there are barriers to meaningful participation in court processes. The people of Palau must have the tools needed to petition for redress of their injuries. Otherwise there can be, both in perception and in reality, unequal access, unequal treatment, and injustice. Thus, the Judiciary should:

Make the courts easier to understand and use. Publication of the rules of procedure, forms, and policies on the Judiciary's website will improve access to necessary information. The same rules, forms, and policies should also be available at the Clerk's Office for users who do not have access to the internet.

Review forms and policies to ensure that they can be understood by *pro se* litigants. Where necessary, generate forms, check lists, and explanatory materials to assist unrepresented parties as they navigate the court system. Define any legal or complex terms. Make Palauan translations available if needed.

Work with the bar association to ensure that adequate and affordable representation is available. Consider developing an intern program to encourage Palauans to attend law school and/or to provide valuable work experience for current law students. Encourage the bar to develop and present trial and written advocacy seminars, providing assistance and expertise whenever possible.

Review court procedures and practices to ensure that they are applied in a uniform, predictable, and efficient manner. Inconsistency may cause court users – be they attorneys, *pro se* litigants, witnesses, the media, victims, or persons seeking court documents – to experience confusion and frustration and can lead to an overall perception of an ineffective and unfair judicial system.

Prevent bias, and the appearance of bias, in all parts of the Judiciary.

Empathize. Try to imagine how the person in front of you feels. Visitors to the Judiciary often do not know what to expect, and the court system can be an unsettling and overwhelming place. From the moment people enter the Clerk's Office or the courtroom, they are in an unfamiliar world where they do not know where to go, what to say, how to act, or even what to wear. Judicial employees at all levels can offer assistance and understanding to make the public's experience more predictable and comfortable.

STRATEGIC GOAL # 4 To have a skilled and satisfied workforce.

The effective administration of justice requires a highly skilled and satisfied workforce. Deliberate attention to recruiting, developing, and retaining high quality staff at all levels

is critical. Because lack of expertise and poor morale would have a negative impact on the services provided by, and the public's perception of, the Judiciary, steps should be taken to foster employees' professional and personal development, such as:

Utilize hiring procedures designed to identify the highest quality applicants for each available position, keeping in mind that an applicant who exhibits dedication, a positive attitude, and a willingness to learn will often outperform a lackluster candidate whose only attribute is that he or she satisfies the educational and experiential requirements for the job.

Evaluate and codify the duties and responsibilities of each position to ensure that standards and expectations are clear, workloads are evenly distributed, compensation and benefits levels are appropriate, and employees are adequately trained. Make any necessary changes to the human resources policies.

Review the performance appraisal and reward system. Ascertain whether employee evaluations are performed regularly and in a uniform manner, whether there are adequate rewards and incentives for exceptional employees, and whether there are appropriate consequences for both single lapses of judgment and on-going failures to meet expectations.

Provide opportunities to acquire skills and training in diverse areas. Employees should be encouraged to broaden their skill set even if a particular activity falls outside their current job description. Courses in computers, accounting, writing, ethics, human resources, word processing, management, etc. would likely redound to the benefit of the Judiciary at some point. At the very least, educational opportunities will enable staff to explore areas of interest, engage in critical thinking, and improve areas of perceived weakness, thereby enhancing overall job satisfaction.

Improve communication throughout the Judiciary. Because the Judiciary is relatively small and operates in only two locations, word of mouth is often relied upon to communicate employment decisions, policy changes, and other information to the staff. More authoritative and timely methods should be implemented, such as an internal messaging system and/or the distribution of a regular newsletter.

Encourage employee input regarding a wide range of operational, staffing, and policy issues. Consultation and substantive consideration of staff views and

suggestions will not only improve the decision-making process and the quality of the decision, but will also promote a sense of ownership and investment in the Judiciary at every level.

STRATEGIC GOAL # 5 To deliver the highest quality of justice and service to the public.

The justices and judges of the Judiciary are called upon to decide many of society's most contentious and important issues. The disputes that give rise to these issues often present complex factual, legal, and administrative challenges, and the Judiciary must be prepared to overcome these challenges and successfully resolve the underlying disagreement. In addition, every member of the Judiciary must conduct themselves in a professional manner in order to reinforce the public's perception of the Judiciary as an effective and fair arbiter of disputes. The following strategies will improve the quality of justice and service offered to the public:

- Promote a legal culture that embraces and expects high standards of professionalism, ethics, and personal behavior. Ensure that codes of conduct for judges, court personnel, and the bar are available and enforced.
- Continue developing and participating in seminars and workshops for judges, court staff, and counsel. The relative size of Palau's legal community may limit the number of events that can be organized on-island, but intra-court programs can be beneficial, and judges and staff should be encouraged to identify regional and international programs that will enhance their knowledge and skills. Programs designed to address issues such as (a) the increasing complexity of the law and court procedures, (b) emerging legal and ethical issues, (c) new technologies, (d) procedural fairness in all court operations and interactions with the public, and (e) new management and service techniques should be considered.
- Hold regular unit and department meetings to discuss current issues, best practices, and upcoming events. The Judiciary is made up of a number of teams: when communication within the team is stifled, each member feels isolated and strategic and operational challenges cannot be addressed effectively. Experience, expertise, and energy go untapped unless timely opportunities for frank communication are available.
- Ensure that the materials needed to adjudicate disputes, such as the ROP, the laws

of the Republic, recent court decisions, and the Restatements of Law, are readily available to the justices and judges.

Develop bench books for the Supreme Court, the Land Court, and the Court of Common Pleas to help the justices and judges with situations they are likely to encounter on the bench. The books should cover procedures for handling routine matters as well as suggestions for how to respond to specific situations. For example, the bench book for the Supreme Court could include copies of the relevant rules of procedure and evidence and address topics such as pretrial procedures and pleas in criminal matters, capital cases, sentencing, findings of fact and conclusions of law, contempt proceedings, closed hearings, conflicts policies, etc.

Provide outstanding service to the public. Encourage a branch-wide culture that focuses on the Judiciary's customers, be they the person waiting for a birth certificate, the litigant calling with an inquiry about her case, or the witness called to testify.

STRATEGIC GOAL # 6 To adjudicate title to the lands of Palau in a timely fashion.

The Constitution and laws of the Republic place on the Judiciary the task of determining ownership of all lands within the Republic as a means of returning to the original owners or their heirs any land which was acquired by previous occupying powers or their nationals through force, coercion, fraud, or without just compensation or adequate consideration. This task has proven to be administratively, factually, and legally challenging and has taken considerably longer than originally anticipated. Through the combined efforts of the Land Court and Clerk's Office staff, the Judiciary created an electronic database of all pending land claims. The Land Court also implemented an *ad hoc* procedure to (a) deal with hundreds of claim files that were not processed in strict compliance with the requirements of the Land Claims Reorganization Act of 1996 and (b) establish a screening and docketing procedure for newly-submitted files. Because the expeditious determination of land ownership is a national policy, the Land Court, supported by the unified Judiciary, should:

Revisit and improve the Land Court Rules of Procedure. The rules have remained unchanged despite statutory amendments and changed circumstances. At present, the Land Court is using *ad hoc* procedures to address new circumstances. The scope and efficacy of *ad hoc* procedures is, however,

limited. The Land Court Rules of Procedure should be more comprehensive in terms of case management and adjudication, from receipt of files to case resolution.

Identify and adjudicate all uncontested land claims and those cases that are resolved through mediation. Contested cases can then be isolated and systematically heard and adjudicated. Claims that linger for years or even decades raise the very real possibility that the claimant will not obtain resolution of title during his or her lifetime: "justice delayed," in this case, may actually be "justice denied." Addressing uncontested claims that can be quickly resolved will further the legislative goal of expediting the determination of land ownership in the Republic.

Improve judicial economy and increase access to justice by minimizing inefficiencies and inconveniences. Although the national capitol, including the Land Court, moved from Koror to Ngerulmud, Melekeok, in October 2006, the majority of the population remains in the former capitol of Koror. Whenever possible, status conferences and other minor proceedings should be held at a date, time, and location most convenient to the judge and the parties involved. When scheduling such minor proceedings, a series of cases should be heard on the same day, thereby increasing judicial economy and reducing travel time between Ngerulmud and Koror. The Land Court should make every effort to consolidate related claims for a joint hearing. For example, claims for lands in a registration area, all of which are claimed by the same person(s), should be consolidated and heard within a single proceeding.

Improve the ability of judges and staff to issue decisions and determinations of ownership with minimal delays. Providing in-court computer access for judges will enable them to edit orders and determinations while on the bench and serve the parties immediately following the hearing. Where a matter is contested, taking notes in electronic form should reduce the time it takes to generate a written decision. Providing searchable electronic legal databases, such as the current PALAU Law Search CD-ROM, to each judge would also expedite the resolution of contested cases where issues of law have to be researched and determined. Not only will research be more efficient, but excerpts from the electronic search results can be cut and pasted into a written decision rather than having to be retyped.

Encourage and facilitate mediation of contested land claims. Contested claims

utilize more judicial resources and can strain relationships between litigants, even those who are closely related. Contested cases resolved through mediation increase judicial economy, further the legislative goal of expediting land ownership determinations, and avoid or mend damage to family or neighborhood relationships.

Conduct biannual reviews of the progress being made and the processes used by the four Land Court Judges. The *ad hoc* procedures permit each Land Court Judge to develop individualized calendaring and case management systems. Combining the best of these procedures in a coordinated effort to improve efficiency and consistency will not only expedite registration of land ownership, but will also make the process more predictable for staff and litigants.

Maintain and update the electronic docketing system. An up-to-date calendar and case docket will not only ensure accuracy, but will enable the Land Court to gauge its progress and identify any outstanding issues or needs. Accurate electronic records will also enable the Land Court to effectively report on the progress of its work to the Chief Justice, the national leadership, and the general public, thereby providing accountability and engendering confidence and support for the work of the Land Court and the Judiciary.

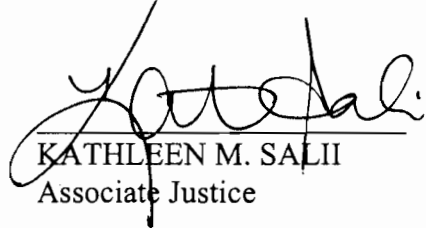
MOST OF THESE GOALS ARE INTERRELATED, such that accomplishing one strategic goal will likely further the Judiciary's ability to meet another. For example, maintaining branch-wide professional excellence as discussed in Strategic Goal # 5 will promote public trust and confidence in the Judiciary, thereby moving us one step closer to accomplishing Strategic Goal # 1. And giving employees an opportunity to provide suggestions regarding operational improvements as suggested in Strategic Goal # 2 will also improve their level of control and job satisfaction under Strategic Goal # 4. Hopefully the implementation strategies described in this plan will provide a roadmap for judicial employees over the next few years and will enhance the Judiciary's ability to provide the highest quality justice for all.

Promulgated this 17th day of April, 2009

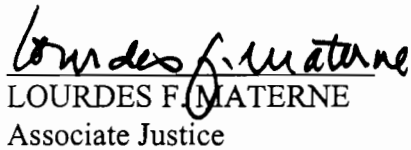
SUPREME COURT



ARTHUR NGIRAKLSONG
Chief Justice



KATHLEEN M. SALII
Associate Justice

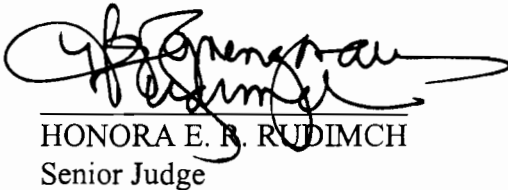


LOURDES F. MATERNE
Associate Justice



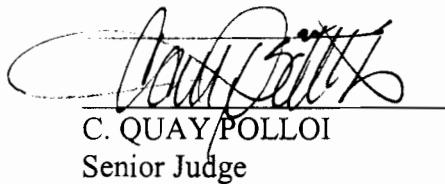
ALEXANDRA F. FOSTER
Associate Justice

COURT OF COMMON PLEAS

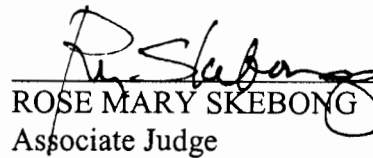


HONORA E. B. RUDIMCH
Senior Judge

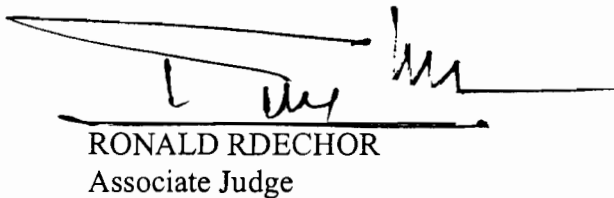
LAND COURT




C. QUAY POLLOI
Senior Judge



ROSE MARY SKEBONG
Associate Judge



RONALD RDECHOR
Associate Judge



SALVADOR INGEREKLI
Associate Judge