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5 **IN THE SUPERIOR COURT OF THE**
6 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

7 **BANK OF GUAM,**) **CIVIL ACTION NO. 95-811**
8 Plaintiff,) **and consolidated case**
9 vs.) **(C.A. No. 95-1196)**
10 **PATRICIA FARNSWORTH,**) **ORDER DENYING PLAINTIFFS’**
11 Defendant) **PROPOSED ORDER FOR**
12) **DEFENDANT’S COMMITMENT**

13 **I. INTRODUCTION**

14 This matter comes before the Court on a Declaration by Plaintiffs’ counsel signed
15 September 18, 2003, and a proposed Order of commitment for the Defendant.

16 **II. PROCEDURAL BACKGROUND**

17 On March 8, 1996, and then again on March 11, 1996, in two separate civil actions that
18 were subsequently consolidated into the present case, the Court issued judgments against the
19 Defendant. On June 25, 1999, the Court issued an order stating that based on a hearing on
20 Plaintiffs’ Motion for an Order to Show Cause, the Defendant was found in contempt of court for
21 failing to make payments pursuant to those judgments, and the Court sentenced her to three (3)
22 days imprisonment, all suspended on the condition that she pay the balances due upon the
23 judgments at the rate of \$50.00 biweekly, commencing on June 30, 1999, and continuing every
24 two weeks thereafter until full satisfaction.

25 The June 25, 1999, Order further provided that if the Defendant failed to comply with
26 any of the foregoing conditions of suspension, and upon the filing of a Declaration to that effect
27 by Plaintiff’s attorney, the aforesaid suspension of sentence shall be revoked, and a commitment
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1 order shall issue, all “**without further notice to the Defendant, remanding Defendant into**
2 **custody to serve the sentence hereby imposed.**”

3 Now, more than four years after the suspended sentence was imposed, but consistent with
4 that Order’s terms, Plaintiffs request that this Court issue a commitment order for the
5 Defendant’s arrest for again failing to make payments on the original judgments, without notice
6 to the Defendant and without a hearing beforehand. This Court declines to issue such a
7 commitment order for the following reasons.

8 **III. ANALYSIS**

9 The Commonwealth Code at 7 CMC § 4208 governs how the Court may punish
10 violations of orders in aid of judgment. Section 4208 reads:

11 If any debtor fails without good cause to comply with any order in
12 aid of judgment made under this chapter, the debtor may be adjudged in
13 contempt as a civil matter, after notice to show cause why the debtor
14 should not be so adjudged and an opportunity to be heard thereon, and
15 upon such adjudication **shall be committed to jail until the debtor**
16 **complies with the order or is released by the court or serves a period**
17 **fixed by the court of not more than six months in jail, whichever**
18 ***happens first.***

19 Thus, civil contempt sentence may be issued for failure to pay in accordance with an order in aid
20 of judgment only after notice and a hearing. Upon finding a Defendant in civil contempt of
21 court, the Court must commit the Defendant to jail, and such commitment shall continue until
22 one of three things happen:

- 23 (1) the Defendant/Debtor complies with the Court’s order, or
24 (2) the Defendant is ordered released by the Court from her jail sentence (as it did here
25 when it suspended the sentence for contempt), or
26 (3) the Defendant serves a fixed jail term set by the Court, not to exceed six months, and
27 the Defendant continues to fail to comply with the Court’s order and the Court does
28 not order her released.

Although 7 CMC § 4208 does not explain what procedures apply when a Plaintiff seeks to
revoke a Defendant’s suspended sentence, I interpret Section 4208 to require that this Court
provide the Defendant notice and a hearing to make a finding of defendant’s continued ability to
pay and thereby ability to comply with the conditions to the probation prior to her commitment
to jail.

