



By order of the Court, Judge **KENNETH L. GOVENDO**

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**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS,**

Plaintiff,

vs.

SHAYNE BLANCO VILLANUEVA,

Defendant.

CRIMINAL CASE NO. 24-0028

**ORDER DENYING
COMMONWEALTH'S MOTION TO
QUASH, GRANTING DEFENDANT'S
CROSS-MOTION TO RECUSE AND
NOTICE OF CONFLICT OF INTEREST**

I. INTRODUCTION

THIS MATTER came before the Court on November 18, 2024, at 10:00 a.m., in Courtroom 205A, at the Superior Court, Guma' Hustisia, Susupe, Saipan, Commonwealth of the Northern Mariana Islands. Defendant Shayne Blanco Villanueva ("Defendant") was represented by Attorneys Keith Chambers ("Chambers") and Joaquin Torres (J. Torres). The Government of the Commonwealth of the Northern Mariana Islands ("Commonwealth") was represented by Assistant Attorney General James Kingman ("Kingman").

At issue were (1) Commonwealth's Motion to Quash Subpoena Ad Testificandum ("Mot. to Quash"); (2) Defendant's Opposition to Motion to Quash Subpoena Ad Testificandum and Cross-Motion to Recuse Prosecutor Kingman ("Opp'n to Mot. & Cross-Mot."); (3) the Commonwealth's Notice of Conflict ("Not. Conflict") as to counsel for the Defendant. The Court took all three (3) matters under advisement. The Court now issues this Order detailing its ruling on all three (3) motions.

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II. MOT. TO QUASH AND CROSS-MOT.¹

a. BACKGROUND

1. The Court previously outlined relevant factual background in an order dated August 29, 2024, which denied Defendant’s Motions to Dismiss and granted in part and denied in part Defendant’s Motion to Strike (hereinafter, “Def.’s Mot. Strike”). This Order hereby incorporates that background by reference.
2. On May 2, 2023, the House Special Committee on Federal Assistance and Disaster-Related Funding (“Special Committee”) was established by House Speaker Edmund Villagomez to “review and conduct any and all investigations” related to the Building Optimism, Opportunity and Stability Together (“BOOST”) Program, under a referral report issued by the previous year’s Joint W&L and JGO Committee. Def.’s Mot. Strike 2.
3. The Special Committee was tasked with investigating the potential misuse of office or public funds within the BOOST Program, with instructions to summon key witnesses, including administrators, contractors, recipients, and other Commonwealth officials, for questioning. Def.’s Mot. Strike 4.
4. On January 17, 2024, the Special Committee subpoenaed Defendant to testify as part of the BOOST investigation. Information 2.

¹ The Mot. to Quash and Opp’n to Mot. & Cross-Mot arise from the same nexus of facts so are addressed in the same order. A Federal Court addressed both the Plaintiff’s motion and the Defendant’s cross-motion in the same order, granting and denying parts of each *Genentech, Inc. v. Insmad Inc.*, 442 F. Supp. 2d 838 (N.D. Cal. 2006) . This practice is consistent with the approach in the 9th Circuit, where courts are required to consider each motion on its own merits, even when they are presented simultaneously *Fair Hous. Council v. Riverside Two*, 249 F.3d 1132 (9th Cir. 2001).

- 1 5. On March 5, 2024, the Defendant appeared with Chambers as his counsel and, with one
2 exception, invoked the Fifth Amendment in response to every question posed by the
3 Special Committee. Def.'s Mot. Dis. 2-3.
- 4 6. During the hearing, Representatives Ralph Naraja Yumul, Chairman of Special
5 Committee ("Yumul"), and Blas Jonathan "BJ" Tenorio Attao gave three warnings that
6 continued refusal to respond could result in contempt charges. *See* Information 6-7.
- 7 7. Subsequently, Representative Marissa P. Flores moved to hold Defendant in contempt,
8 and the Special Committee unanimously approved the motion. *See* Information 7.
- 9 8. On March 28, 2024, the Commonwealth formally filed contempt charges against
10 Defendant. Def.'s Mot. Dis. 6.
- 11 9. At an Arraignment dated April 2, 2024, the Defendant, through Chambers, raised initial
12 concerns about the potential conflict of interest due to the familial relationship between
13 Presiding Judge Naraja ("PJRCN"), who was then the sitting judge being an uncle of
14 Yumul.
 - 15 i. The Court advised addressing potential conflicts of interest through a formal
16 motion.
 - 17 ii. Chambers did not file motions in a timely manner.
- 18 10. On September 9, 2024, the Commonwealth included Yumul on its witness list. Pl.'s
19 Witness List.
- 20 11. On September 13, 2024, the Defendant filed a Motion to Reconsider the Court's Order
21 Denying Mr. Villanueva's Motion to Dismiss the Information based on Defendant's right
22 to assert the Fifth Amendment Privilege against Self-incrimination because the
23 Commonwealth informed Mr. Villanueva it was Investigating him ("Mot. Recons.").
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1 12. On October 10, 2024, the Defendant subpoenaed Yumul to testify during the trial. Def.'s
2 Subpoena.

3 13. On October 10, 2024, the Defendant subpoenaed Kingman to testify at trial.

4 14. On October 17, 2024, the Commonwealth filed a Mot. to Quash.

5 15. On October 21, 2024, J. Torres entered his appearance as a co-counsel for Defendant.
6 Def.'s Notice of Appearance.

7 16. On October 22, 2024, during a Pretrial Conference Hearing, the Defendant, through J.
8 Torres, again raised concerns regarding the potential conflict of interest. Order After
9 Hearing 2.

10 17. On October 25, 2024, PJRCN issued an Order Denying the Defendant's Motion to
11 Reconsider the Court's Order Denying the Defendant's Right to Assert the Fifth
12 Amendment Right Against Self-Incrimination Because the Commonwealth Informed Mr.
13 Villanueva it was Investigating Him ("Order Den. Def.'s Mot. Recons.").

14 18. On October 28, 2024, the Defendant filed an Opposition to Motion to Quash Subpoena to
15 Testify at Trial as to Government Prosecutor James R. Kingman and Cross-Motion to
16 Recuse Prosecutor James R. Kingman ("Opp'n to Mot. & Cross-Mot") along with an Offer
17 of Proof outlining the proposed testimony in response to the Commonwealth filing Mot.
18 to Quash.

19 i.) In his filing, the Defendant seeks to introduce statements by Kingman regarding
20 an investigation by the Office of the Attorney General (OAG), probable cause
21 against Defendant, and the potential for criminal charges.

22 ii.) Defendant sought Kingman to recuse himself so that he may serve as a factual
23 witness regarding relevant matters at the trial.

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1 iii.) Defendant contends that statements are crucial to the Defendant’s Defense,
2 particularly concerning his right to plead the Fifth Amendment. Opp’n to Mot.
3 & Cross-Mot 1 ¶ 1.

4 iv.) Defendant claims the statements by Kingman are directly relevant to whether
5 Defendant had reason to believe that the Commonwealth could use his
6 responses for self-incrimination. *Id.*

7 19. On October 30, 2024, the Commonwealth filed a Reply to Opposition to Motion to
8 Quash (“Reply to Opp’n to Mot. to Quash”).

9 20. On November 15, 2024, PJRCN issued an Order of Self-Recusal and reassigned the case
10 to Associate Judge Kenneth Govendo (“AJKLG”).

11 21. On November 18, 2024, both parties appeared at a status conference before AJKLG, who
12 delayed the trial to January 27, 2025. AJKLG expressed his displeasure at the prior
13 conduct of both parties and took outstanding motions under advisement.

14 **b. Legal Standard**

15 The Fifth Amendment says to the federal government that no one shall be "deprived of life,
16 liberty or property without due process of law." U.S. CONST. amend. V. A prosecutor whose
17 comments “infected the trial with unfairness as to make the resulting conviction a denial of due
18 process” would violate the Fifth Amendment. *Darden v. Wainwright*, 477 U.S. 168, 170 (1986).

19 The Supreme Court has, in some cases, allowed untimely motions to correct a manifest
20 injustice. These cases often involve situations where procedural errors or new evidence
21 significantly impact the trial's fairness or the case's outcome. The courts have sometimes exercised
22 discretion to ensure the service of justice, even if it means deviating from standard procedural
23 timelines. In *Dobbs v. Zant*, the U.S. Supreme Court reversed the appellate Court's decision not to
24 consider a newly discovered sentencing transcript crucial for the petitioner's ineffective assistance

1 claim. The Court emphasized the importance of considering all relevant evidence to avoid manifest
2 injustice, even if it meant revisiting procedural decisions. *Dobbs v. Zant*, 506 U.S. 357 (1993).

3 Combining the roles of advocate and witness can prejudice the tribunal and the opposing
4 party and can also involve a conflict of interest between the lawyer and client. MODEL RULES OF
5 PROF'L CONDUCT R. 3.7 (AM. BAR ASS'N 2024). The 7th Circuit upheld a ruling confirming the
6 advocate witness rule prohibiting prosecutors from appearing as witnesses also applied to
7 proceedings tried by a judge. In doing so, the Court stated that (1) the advocate-witness rule was
8 designed to prevent even the appearance of bias, (2) the central justification for the rule
9 (maintenance of public confidence in the ultimate fairness of judicial proceedings) is no less
10 applicable to proceedings before a judge than it is to those before a jury, (3) the legal profession
11 has recognized the impropriety of assuming dual roles in litigation and the potential unfairness
12 toward Defendant, and (4) the government had not shown extraordinary circumstances to warrant a
13 departure from the rule. *United States v. Johnston*, 664 F.2d 152 (7th Cir. 1981)

14 The work-product privilege (or "work-product doctrine") protects from discovery by the
15 opposing party "documents and tangible things that are prepared in anticipation of litigation or for
16 trial." FED. R. CIV. P. 26(b)(3). While work product protection is designed to shield protected
17 materials from adversaries, voluntary disclosure to an adversary typically waives this protection.
18 *United States v. Sanmina Corp. & Subsidiaries*, 968 F.3d 1107 (9th Cir. 2020). When an attorney
19 communicates directly with opposing counsel, such communications are not protected under the
20 work-product doctrine because they are not prepared in anticipation of litigation but are instead
21 part of the adversarial process itself. *Id.*

22 Under Rule 17(c) of the Commonwealth Rules of Criminal Procedure, a court may quash or
23 modify a subpoena if compliance would be unreasonable or oppressive. NMI R. Crim. P. 17(C).

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c. Discussion

A.) Displeasure with the Status of Proceedings

The Court would express its displeasure with the current status of this matter. The Court does not deny the Commonwealth has proper jurisdiction over this matter of legislative contempt. 1 CMC § 1306². However, as the BOOST program involves federal funding, the FBI, in collaboration with the U.S. Attorney's Office, would have been better equipped to investigate and prosecute allegations of corruption in Federal Court. 18 U.S.C.S. § 3052³. Our local legal community's small size and interconnectedness warrant FBI involvement, ensuring external prosecution that would have helped secure impartiality and prevent further delays hindering the pursuit of justice. The potential biases or conflicts of interest were too pervasive to handle impartially, as the motions for the recusal of PJRCN and Kingman have proven. This chaotic process has harmed the service of justice; the Court has had to rebuild the comprehensive understanding of the case that PJRCN had developed over the last eight months. Reassignment has imposed significant burdens on our already constrained judicial system. The newly assigned AJKLG has had to go through the time-consuming process of reviewing the entire case file and familiarizing himself with its procedural history. Case reassignment forced the Court to reexamine all prior rulings to ensure consistent case management throughout the proceedings. In addition, as

² 1 CMC § 1306. Contempt.

(a) A person shall be in contempt if the person:

....

(2) Fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or

.....

(b) An investigating committee may, by majority vote of all its members, report to the legislative house by which it was established any instance of alleged contempt. The president or speaker shall certify a statement of the contempt under his or her signature as president or speaker, as the case may be, to the Attorney General who shall prosecute the offender in the Commonwealth Trial Court. If the legislature is not in session, a statement of the alleged contempt shall be certified by the chairman or acting chairman of the committee concerned, under his or her signature, to the Attorney General who shall prosecute the offender as aforesaid. An instance of alleged contempt shall be considered as though committed in or against the particular house or the legislature itself.

³ 18 U.S.C.S. § 3052: The [FBI] may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States...

1 PJRCN expressed before his recusal in the Order Den. Def.'s Mot. Recons, the proceedings
2 between both parties have been very acrimonious to date, burdening the Court with personal
3 attacks and other disruptive conduct. Rather than ascertaining the alleged criminal liability of the
4 Defendant, the proceedings have devolved into a personal mud-slinging match between opposing
5 counsels.

6 **B.) Supeona Not Prejudicial to Commonwealth**

7 The Commonwealth requests the Court use Rule 17(c) to quash Kingman's subpoena as it
8 would be unreasonable or oppressive. Mot. to Quash 3 ¶ 4. The Court does agree with the
9 Commonwealth that a subpoena to testify would cause Kingman to step aside from his role as
10 OAG prosecutor. Mot. to Quash 3. However, the Court disagrees with the Commonwealth that a
11 subpoena would be prejudicial to its case if Kingman were to step aside. Kingman is not the only
12 prosecutor the OAG employs; another prosecutor would equally see the case through trial.
13 Kingman incorrectly distinguishes a case, stating, "Courts have long recognized that permitting a
14 prosecutor to testify can create an undue advantage for the Defense and undermine the
15 Commonwealth's ability to present its case effectively. *See United States v. Wallach*, 935 F.2d
16 445, 460 (2d Cir. 1991)." Mot. to Quash 3 ¶ 3. However, the Wallach court ruled that "Defendants
17 point to nothing that demonstrates the existence of any bias or prejudice. Finally, even assuming
18 the existence of some bias, defendants have in no way established that they were prejudiced by any
19 conflict of interest." *Id.*⁴ We distinguish *Wallach* from this matter, where Kingman's conduct
20 showed bias towards the opposing counsel. *See* Order Den. Def.'s Mot. Recons. 6-7. In addition,
21 Kingman's allegations of improper contact by phone and email are an alleged conflict of interest.
22 *See* Offer of Proof, *See* Opp'n to Mot. & Cross-Mot. A new impartial prosecutor, untainted and
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24 ⁴ *Wallach* was overruled in part by *Ciminelli v. United States*, 598 U.S. 306, 143 (2023) on the right-to-control theory on federal statutes, but still good law in regards to the fairness of the trial.

1 unburdened by allegations of impropriety, would not be prejudicial to the Commonwealth's case;
2 therefore, the Court sees no reason to use Rule 17(c) and grant the Mot. to Quash.

3 **C.) Witness Advocate Rule Justifies Subpeona**

4 While the circumstances of *Johnston* should be distinguished from *Villanueva*, as it was the
5 U.S. Attorney trying to permit the prosecutor to testify over the witness-advocate rule, the findings
6 of the law are the same. *Johnston*, 664 F.2d 152. The *Johnston* court strongly believed that "that the
7 central justification for the rule-the maintenance of public confidence in the ultimate fairness of
8 judicial proceedings-is no less applicable to proceedings before a judge than it is to those before a
9 jury." *Id.* at 157. In *Johnston*, the prosecutor's testimony had limited evidentiary value and "the
10 circumstances were [not] extraordinary as to warrant a departure from the settled rule prohibiting
11 testimony by a government prosecutor." *Id.* at 159. The *Johnston* prosecutor can be distinguished
12 from Kingman, whose testimony of his alleged conduct would be very rich in evidentiary value, as
13 it concerns the alluded cause for the Defendant's contempt charges. *See* Mot. Recons.

14 Both the Defense and Commonwealth's arguments concerned the applicability of the
15 witness-advocate rule to *Prantil*, arguing whether there was a compelling need for the prosecutor to
16 testify. *See* Opp'n to Mot. & Cross-Mot, *See* Mot. to Quash. We find this matter more comparable
17 to *Johnston*, which concerns bench trials, rather than *Prantil*, which concerns jury trials. However,
18 *Prantil* does argue for the need to exhaust all other sources of evidence; only then could the
19 prosecutor be called an essential witness. *United States v. Prantil*, 764 F.2d 548 (9th Cir. 1985).
20 The *Prantil* court stated that: "we recognize that a defendant has an obligation to exhaust other
21 available sources of evidence before a court should sustain a defendant's efforts to call a
22 participating prosecutor as a witness. Nonetheless, the Defendant's obligation to resort to alternative
23 means of adducing factual testimony is not absolute. Both the quality and quantity of the alternate
24 sources of evidence are proper subjects for comparison with that sought directly from the

1 participating prosecutor.” *Id.* at 551–52. The Commonwealth cites *United States v. Roberson*, 897
2 F.2d 1092. It claims alternative, non-privileged sources of evidence “documents, testimony from
3 law enforcement officers, or other witnesses” are available and thus testimony is not necessary.
4 Mot. to Quash at 3 ¶ 3. However, the Commonwealth does not suggest concrete examples of
5 alternative evidence regarding Kingman’s attorney communications with Chambers in any of its
6 filings. The phone calls and emails were a private conversation between two attorneys; Kingman
7 has given no evidence of any witnesses other than himself and Chambers. Therefore, a subpoena for
8 Kingman would be necessary as testifying to actions is vital to this matter as an essential witness.
9 Knowing if his actions were improper is also in the public interest.

10 **D.) Necessity of Recusing Kingman**

11 In the preceding sections, the Court established the necessity of Kingman as an essential
12 witness whose testimony is crucial, and another prosecutor could replace him in representing the
13 Commonwealth. Kingman’s case is similar to the prosecutor in *Edwards*, who had independent
14 personal knowledge of facts disputed at trial; thus, the Court ruled it would be improper for him to
15 act as a prosecutor if he used that inside information to testify indirectly or if they are the sole
16 witness necessary to establish essential facts otherwise not ascertainable. *United States v. Edwards*,
17 154 F.3d 915 (9th Cir. 1998). In addition, Courts have discretion to consider unsupported or
18 insufficiently developed arguments waived. *See Commonwealth v. Borja*, 2019 MP 7, ¶ 8; *see also*
19 *Kim v. Baik*, 2016 MP 5, ¶ 30. In replying to Chambers, Kingman did not cite a single case or
20 anywhere else on the record. *See Reply to Opp’n to Mot. to Quash*. Therefore, the Court found
21 Kingman’s arguments opposing his recusal were merely unsupported allegations expressing his
22 opinion. The Court expects the Commonwealth’s OAG prosecutors to be proud of their work and
23 include thorough legal analyses in their required filing. Aside from the Court finding it improper
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1 for Kingman to remain as prosecutor on this matter, the Court will subsequently give additional
2 findings on Kingman’s dereliction of duties on the following grounds.

3 In addition, the Court finds Kingman tainted with allegations of prosecutorial misconduct,
4 which concerns his impartiality and bias and violates MRPC 3.8. MODEL RULES OF PRO. CONDUCT
5 R. 3.8 (AM. BAR ASS’N 2024)⁵. A prosecutor's role is to seek justice, not merely to convict. *Id.*
6 Although his attorney communications came after Chambers brought them to the public with his
7 motions, Kingman’s actions have led to increased public condemnation of the Defendant, casting
8 him a guilty party even before the Commonwealth filed charges. Even after the allegations of
9 Kingman’s misconduct came to light, he did not recuse himself from this matter and attempted to
10 maintain his position as prosecutor despite the allegations. Through his attempts to avoid testimony,
11 which have also wasted Court resources, Kingman again violated the spirit of MRPC Rule 3.8,
12 where Prosecutors are responsible for ensuring that all relevant evidence is submitted, even if
13 unfavorable to their position.

14 Although the Court will stay judgment on the case's merits until the trial, Kingman’s
15 conduct has raised the allegation of other instances of prosecutorial misconduct, which will violate
16 Fifth Amendment Due Process rights. *see United States v. Lord*, 711 F.2d 887 (9th Cir. 1983)
17 (holding that the record supported finding that "prosecutorial misconduct" caused the defense
18 witness to invoke his Fifth Amendment privilege because the prosecutor told the witness that
19 "whether he would be prosecuted depended on his testimony"); *see also United States v. Straub*, 538

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⁵ Rule 3.8 of the MRPC outlines several obligations for prosecutors, including the duty to refrain from making extrajudicial comments that could heighten public condemnation of the accused, except when necessary to inform the public of the nature and extent of the prosecutor's actions and for legitimate law enforcement purposes.

Also, accoridin to Rule 3.8 of the MRPC: Prosecutors also have a responsibility to ensure that all relevant evidence, even if unfavorable to their position, is presented to the Court. This duty is emphasized in the commentary to Rule 3.8, which states that a prosecutor's role is to seek justice, not merely to convict. This includes ensuring procedural justice and that guilt is determined based on sufficient evidence.

1 F.3d 1147, 1158 (9th Cir. 2008), (citing *Williams v. Woodford*, 384 F.3d 601- 602 (9th Cir. 2004)).
2 (“Undue prosecutorial interference in a defense witness's decision to testify arises when the
3 prosecution intimidates or harasses the witness to discourage the witness from testifying, for
4 example, by threatening the witness with prosecution for perjury or other offenses. . . . The
5 prosecution's conduct must amount to a substantial interference with the defense witness's free and
6 unhampered determination to testify before the conduct violates the Defendant's right to due
7 process.”) Despite the untimeliness of the recusal (*see Section E. Untimeliness of recusal*),
8 Kingman’s misconduct was severe enough to affect the Defendant's due process rights. Therefore,
9 using its discretion power to protect the integrity of the judicial process, the Court was forced to
10 recuse Kingman.

11 Throughout the proceedings, Kingman’s animosity towards Defendant and Chambers has
12 lacked purpose or etiquette and drained judicial resources. Therefore, the Court finds itself in the
13 unpleasant position of publicly reprimanding Kingman and imposing sanctions of a fine of **\$500**
14 for conduct in the case involving the Defendant. *See Conclusion*. Kingman has hurt the efficiency
15 of the Commonwealth OAG Criminal Division and needlessly wasted valued judicial resources
16 through his prosecutorial misconduct. Kingman's colleagues in the OAG will now have to find a
17 substitute prosecutor who must review the entire case file and familiarize themselves with its
18 procedural history before the trial date.

19 Kingman’s phone and email communications with Defendant, through Chambers, were
20 improper and warrant recusal. The phone call had indicated that he was under investigation by the
21 Office of the Attorney General, that the Commonwealth already had probable cause against him,
22 and that the Commonwealth was weighing whether to charge him criminally. Kingman’s phone
23 call to Chambers before the March 5, 2024, legislative hearing may have invited the Defendant to
24 invoke his Fifth Amendment rights. (*See Offer of Proof*). As a prosecutor, Kingman should know

1 that our judicial system's integrity relies heavily on the proper etiquette of all legal professionals
2 involved. The ex-parte communications led to burdensome actions, from the Defendant's decision
3 to plead the Fifth Amendment to requesting a subpoena, which undermined the efficiency of the
4 judicial system. Such actions can delay the course of proceedings and needlessly expend judicial
5 resources.

6 In light of these concerns, the Court must reprimand and sanction Kingman for his prior
7 conduct that was improper toward other parties, including the Court and the public. All
8 communications and actions taken during Kingman's duties as a Prosecutor must adhere strictly to
9 the highest standards of professional ethics. The Court expects Kingman to take this recusal due to
10 misconduct, reprimand, and sanction of **\$500** seriously and ensure that his future conduct aligns
11 with the ethical obligations of his position.

12 **E.) Attorney-Attorney Communication is Discoverable and not Work Product**

13 Without any citations or support, Kingman alleges that "attorney-attorney communication
14 inappropriate for publication in court" without support or citations. Reply to Opp'n to Mot. to
15 Quash 2. However, attorney-attorney communications are only privileged under the common
16 interest doctrine, not between party opponents. The common interest doctrine, also known as the
17 joint defense privilege, extends the attorney-client privilege and applies to communications
18 between parties with a common legal interest. *United States v. Gonzalez*, 669 F.3d 974, 978 (9th
19 Cir. 2012). As Kingman and Chambers are party opponents, neither common legal interest nor the
20 attorney-client privilege would apply to their communication.

21 The calls and emails sent by Kingman to Chambers do not fall under the work-product
22 protection and are generally discoverable. The only support Kingman gives to his work product
23 argument is that "[his] mental impressions, conclusions, and legal strategy are not subject to
24 disclosure under *Hickman v. Taylor*, 329 U.S. 495, 510-511 (1947). [Kingman alleges] the

1 subpoena improperly attempts to intrude on privileged matters, and no showing of necessity has
2 been made by the Defendant to overcome these protections.” Mot. to Quash 3. Other than claiming
3 that the communications involved his “mental impressions, conclusions, and legal strategy,”
4 Kingman does not attempt to explain how emails and phone calls would be considered work
5 privilege. *Id.* The work-product doctrine primarily protects materials prepared by or for an attorney
6 in anticipation of litigation, including documents and tangible things that reflect the attorney's
7 mental impressions, conclusions, opinions, or legal theories. *Sanmina*, 968 F.3d at 1119 (9th Cir.
8 2020); *see also United States v. Nobles*, 422 U.S. 225 (1975).

9 However, even if the communications were work product, the Court finds it puzzling why
10 Kingman would freely give it to his party opponent. The Court would agree with Chambers, who
11 argues, “One way in which the work product doctrine can be waived is if the information is
12 voluntarily revealed to the party’s adversary. *See United States v. Massachusetts Inst. of Tech.*, 129
13 F.3d 681, 687 (1st Cir. 1997) (stating the prevailing rule that disclosure to an adversary, real or
14 potential, forfeits work product protection. (internal quotation omitted)” Opp'n to Mot. & Cross-
15 Mot at 4. While the Court does not necessarily agree that work product protection covers
16 Chambers and Kingman’s phone and email communications, it does agree with Chambers that they
17 were freely delivered and that “the need for the privilege disappears.” *In re Steinhardt Partners*,
18 L.P., 9 F.3d 230, 235 (2d Cir. 1993). Opp'n to Mot. & Cross-Mot at 9. Kingman voluntarily
19 disclosed his phone calls and emails to his opponent and described them as “plea” negotiations
20 without support. Reply to Opp'n to Mot. to Quash 2. Therefore, voluntarily disclosing work
21 product to an adversary removes the need for privilege and grants the adversary access. *See*
22 *Massachusetts Inst. of Tech.*, 129 F.3d 681 (1st Cir. 1997). (MIT disclosed sensitive documents to
23 an audit agency, a potential adversary). There is no evidence that Kingman’s phone calls and
24 emails were material preparations for the upcoming litigation, but regardless, disclosure to a likely

1 adversary forfeited any possible work product protection, especially when litigation risk was
2 present. *Id.*

3 **F.) Purposeful Untimeliness of Recusals Burden Court**

4 The Court also finds that Chambers, disregarding the harm he caused the CNMI Judiciary,
5 was purposefully untimely⁶ in filing recusal motions for both PJRCN and Kingman to gain an
6 advantage in the trial. Applying the *Bank of Saipan* factors⁷ (The timeliness determination involves
7 a case-by-case basis considering: i.) the movant's involvement in the proceeding; ii.) potential waste
8 of judicial resources; iii.) timing relative to the entry of judgment; iv.) and any good cause for delay
9 in filing) to the present case demonstrates that both of Chambers' recusal requests are untimely.
10 *Bank of Saipan*, 2002 MP 16 ¶ 18. Chambers' request for both recusals is untimely, as it was raised
11 after significant engagement in the proceedings and substantial judicial resource investment,
12 suggesting strategic motivation rather than a genuine concern about potential bias.⁸

13 **i.) Chambers' Extensive Involvement in the Proceedings**

14 Chambers has been actively engaged in these proceedings since the Commonwealth
15 formally filed a contempt charge against the Defendant in March 2024. From the outset,
16 Chambers was aware of the familial relationship between the PJRCN and Representative
17 Yumul. Despite this knowledge, Chambers participated fully in the case proceedings for

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19 ⁶ It is well established in [the 9th Circuit] that a recusal motion must be made in a timely fashion. *Molina v. Rison*, 886 F.2d 1124, 1131 (9th Cir. 1989), *United States v. Conforte*, 624 F.2d 869, 880 (9th Cir.), *cert. denied* 449 U.S. 1012, 66 L. Ed. 2d 470, 101 S. Ct. 568 (1980). "The absence of such a requirement would result in . . . a heightened risk that litigants would use recusal motions for strategic purposes." *Preston v. United States*, 923 F.2d 731, 733 (9th Cir. 1991).

20 ⁷ Under 1 CMC § 3308(a), which concerns the disqualification of judges," a justice or judge of the Commonwealth shall disqualify himself or herself in any proceeding in which his or her impartiality might reasonably be questioned." "A motion to disqualify under section 3308(a) must also be timely... Whether a motion under 3308(a) is timely is determined on a case-by-case basis, considering the following factors: "1) the extent of movant's involvement in the proceeding; 2) whether recusal would result in waste of judicial resources; 3) whether the motion was made after entry of judgment; and 4) whether movant can demonstrate good cause for delay. (internal citations omitted)." *Bank of Saipan v. Superior Court*, 2002 MP 16 ¶ 18.

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23 ⁸ The Court acknowledges the different roles of Prosecutors and Judges. However, the rationale for Chambers in recusing both PJRCN and Kingman were similar. The 9th Circuit has consistently held that recusal motions must be made in a timely fashion to prevent parties from using recusal as a strategic tool after an unfavorable outcome. This principle is evident in cases such as *United States v. Rogers*, 119 F.3d 1377 (9th Cir. 1997), where the court emphasized that a party cannot wait until after an unfavorable judgment to bring up grounds for disqualification. *United States v. Rogers*, 119 F.3d 1377. Similarly, in *United States v. Mikhel*, 889 F.3d 1003 (9th Cir. 2018), the court reiterated the necessity of timely filing recusal motions to avoid strategic manipulation.

1 over six months before raising any formal objection regarding potential judicial bias. *See*
2 **Background**. During this period, Chambers demonstrated substantial engagement by filing
3 multiple motions, including motions to dismiss, to strike, and for reconsideration, each time
4 asking the sitting judge to evaluate these requests. The depth and breadth of Chambers'
5 participation, coupled with the failure to raise the recusal issue until the Pretrial Conference
6 on October 22, 2024, through J. Torres, who just joined as a co-counsel, weighs heavily
7 against finding the motion to recuse PJRCN timely. Similarly, the earliest communications
8 between Chambers and Kingman arose in February 2024, before the Defendant pleaded the
9 Fifth Amendment. *See Background*. The similar months-long delay also weighs heavily on
10 the timeliness of the motion to recuse Kingman.

11 **ii.) Significant Waste of Judicial Resources**

12 The Court views the mounting inefficient use of judicial resources with grave
13 concern. *See A.) Displeasure with the Status of Proceedings*. Over the past eight months,
14 PJRCN expended substantial time and resources, including presiding over multiple hearings,
15 conducting arraignment and pretrial proceedings, issuing various substantive orders, and
16 gaining detailed familiarity with the complex issues presented. PJRCN previously addressed
17 the wasteful use of judicial resources when reviewing and ruling on Defendant's August 29,
18 2024, Mot. Recons. — a motion that diverted valuable court time to address personal
19 disputes between counsel rather than advancing the substantive merits of the case. Being
20 forced to grant both recusals at this late stage has exponentially compounded the waste of
21 judicial resources. The Court's resources are finite, particularly in our underfunded
22 jurisdiction. The judicial system cannot countenance conduct that needlessly squanders
23 these resources, especially when the moving party could have avoided such waste through
24 timely action.

1 The Court is particularly troubled by how Chambers' untimely recusal requests,
2 albeit orally, combined with the earlier inefficient use of judicial resources, threaten the
3 operational capacity of our judicial system. This pattern of delayed objections and failure to
4 exercise due diligence in raising concerns at the appropriate time creates a ripple effect that
5 impacts this case and the administration of justice in other matters before the Court. AJKLG
6 was required to review arguments on previously decided matters and add further delay to the
7 resolution of this case. Such conduct undermines the CNMI Judiciary's ability to manage its
8 docket efficiently and provide timely justice to all litigants.

9 **iii.) Timing Relative to Progress of Proceedings**

10 The timing of Chambers' recusal request is particularly problematic given the
11 advanced stage of the proceedings. Chambers waited until after several substantive hearings
12 and rulings before this Court to file both his recusals, objecting as the case approaches the
13 bench trial stage, scheduled to commence in less than two months. This timing suggests
14 strategic motivation rather than genuine concern about judicial or prosecutorial biases. The
15 delay is especially concerning because PJRCN explicitly advised Chambers at the April 2,
16 2024, arraignment to file any formal motion regarding conflict concerns early in the
17 proceedings. Rather than raising the grounds for disqualification at the earliest practicable
18 opportunity, Chambers waited until the case substantially progressed to file two motions to
19 recuse both the judge and prosecutor for this matter.

20 **iv.) Absence of Good Cause for Delay**

21 Chambers failed to articulate any good cause to justify the delayed filing of a formal
22 recusal motion. Based on the familial relationship between the PJRCN and Representative
23 Yumul, the alleged conflict presents no new facts or circumstances that would explain or
24 excuse the delay in raising this issue. From the beginning of these proceedings, Chambers

1 knew PJRCN’s familial relationship with Yumul, and no intervening events have occurred
2 that would justify waiting six months to seek recusal. Likewise, Chambers has not explained
3 the delay in filing Kingman’s recusal motion. However, the Court has noticed that the
4 clashes between the opposing counsel have become increasingly acrimonious as the
5 proceedings have progressed. Chambers intentionally delayed weakening the opposing
6 counsel at an inopportune time, regardless of the spillover to the judicial branch. Therefore,
7 the Court finds Chambers’ lack of good cause has violated MRPC 3.4, where Comment 1
8 states, “fair competition in the adversary system is secured by prohibitions against
9 destruction or concealment of evidence, improperly influencing witnesses, obstructive
10 tactics in discovery procedure, and the like.” MODEL RULES OF PRO. CONDUCT R. 3.4 (AM.
11 BAR ASS’N 2024). Allowing such delayed challenges without good cause would encourage
12 tactical manipulation of the judicial process and undermine the efficient administration of
13 justice. *See N. Marianas Hous. Corp. v. Superior Court of the N. Mar. I.*, 2020 MP 18, ¶ 19.

14 **G. Kingman Recusal Granted with Manifest Injustice Considerations**

15 Chamber’s filing Opp’n to Mot. & Cross-Mot was untimely and needlessly squandered
16 judicial resources. However, it is necessary to grant the Cross-Mot as correcting a manifest
17 injustice, which would override its defense of untimeliness, a conclusion of law supported by the
18 Supreme Court in *Dobbs* and several appellate courts. *Dobbs*, 506 U.S. 357, *See D.) Necessity of*
19 **Recusing Kingman.** The Court admits that even if a motion was untimely, “we conclude that
20 prejudice should be the determinative factor.” *United States v. Torres-Rodriguez*, 930 F.2d 1375,
21 1384 (9th Cir. 1991). The Defendant can compare to *Schell* when ruling on allowing Chambers’
22 untimely motion. *Schell v. Witek*, 181 F.3d 1094, 1100 (9th Cir. 1999). The Commonwealth,
23 similar to the “State [in *Schell*], does not argue that [the Defendant] made the motion in bad faith
24 or intentionally [delayed] the trial. Because the [*Schell* Court] failed to address [the Defendant’s]

1 motion, [the 9th Circuit was] unable to determine whether it was untimely. *Id.* “Although
2 [Defendant’s] motion may have been untimely and the conflict with his counsel may not have been
3 so great that it prevented the presentation of an adequate defense, the trial court's failure to make
4 an inquiry prevents us from determining those issues. We hold that the trial court's failure to make
5 an inquiry into Schell's motion for substitute counsel may have deprived *Schell* of his Sixth
6 Amendment rights.” *Id.* at 110. Therefore, the Court has inquired into recusing Kingman. *See D.)*
7 **Necessity of Recusing Kingman.** Although the case has not been to trial, Kingman’s remaining as
8 prosecutor in light of his communications would prove prejudicial to the Defendant, violating his
9 Fifth Amendment due process rights. *Darden v. Wainwright*, 477 U.S. 168. Therefore, the Court
10 granted the untimely Cross-Mot to prevent manifest injustice during the bench trial.

11 **H.) Misconduct of Chambers as Defense Counsel:**

12 Many concerns arise over Chambers' representation of his client.⁹ While the MODEL RULES
13 OF PROF'L CONDUCT R. 1.3 (AM. BAR ASS'N 2024) requires Chambers to defend his client
14 zealously, he still needs to be an ethical advocate, which he has not done so far regarding the
15 CNMI Judiciary. *see F.) Purposeful Untimeliness Recusals Burden Court iv.) Absence of*
16 **Good Cause for Delay.** While the Offer of Proof concerns Kingman’s communications, it also
17 hints at Chambers’ communication with Kingman. *see Offer of Proof.* It is unclear if Chambers’
18 actions conformed with his role of effectively aiding and advising his client. In “[Vavages], the
19 prosecutor instead admonished only [Defendants’s] counsel, and admonishments that are
20 threatening or intimidating to a lay witness might not be threatening or intimidating to the witness’
21 counsel. In other words, a defendant may not be prejudiced by a prosecutor's improper warnings
22 where counsel for a witness strips the warnings of their coercive force. In the present case,

23 _____
24 ⁹ A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued.

1 however, there is no question that the prosecutor's warnings were [the root cause of the
2 Defendant's] refusal to testify (internal citation omitted) (internal quotation omitted)". *United*
3 *States v. Vavages*, 151 F.3d 1185, 1191 (9th Cir. 1998).

4 Similarly, there was no need for Chambers to have communicated all of Kingman's
5 improper communications to his client when Chambers might have known it might have been ex-
6 parte plea bargaining and scared him into pleading the Fifth Amendment without understanding the
7 consequences. Any improper conduct should have been appropriately reported and used as the
8 basis for a timely recusal motion. In addition, Chambers led to increased public scrutiny of his
9 client in disclosing the communications with Kingman. Even with a bench trial, the general public
10 may have heightened perceptions of his client's guilt as the trial date approaches, affecting the
11 perception of the Court's decision.

12 In addition, the Court finds Chambers to have violated MODEL RULES OF PRO. CONDUCT R.
13 8.4 (AM. BAR ASS'N 2024). Under Model Rule of Professional Conduct (MRPC) 8.4, it is
14 professional misconduct for a lawyer to "engage in conduct that is prejudicial to the administration
15 of justice." As explained in **F.) Purposeful Untimeliness Recusals Burden Court**, the purposeful
16 untimeliness of Chambers' motions to recuse counsels and judges affected the administration of
17 justice. Chambers wasted judicial resources and hindered the efficiency of the CNMI Judiciary;
18 these unethical actions affected his client's right to a speedy trial. If Chambers had been timely and
19 had recused PJRCN and Kingman earlier, this process would not have dragged on, and the
20 Defendant's trial would not have suffered delays.

21 Once again, the Court finds itself in the unpleasant position of reprimanding an attorney.
22 The Court publicly reprimands Chambers, sanctioning him with a fine of **\$500** for his egregious
23 conduct in the case involving the Defendant. *See Conclusion* The Court also admonishes J. Torres
24 for being aware of his counsel's ethics violations that have burdened the CNMI Judiciary, affected

1 the pursuit of justice, and not retroactively taking steps to alleviate or mitigate the harm his co-
2 counsel caused. J. Torres should be aware that upon joining Chambers as co-counsel, he will be
3 affected by the conduct of his co-counsel during the bench trial and will be held jointly liable for
4 sanctions if future violations arise. As the CNMI Bar Association Secretary and former Superior
5 Court Law Clerk, Chambers should know better than many lawyers how finite judicial resources
6 are and how harmful his violations were to the entire CNMI Judiciary. Although the Court views
7 untimely motions extremely unfavorably, they were only allowed to proceed to correct a manifest
8 injustice. Therefore, the Court is hugely disappointed with Chamber’s conduct and hopes his future
9 actions as a defense counsel will align with his duties to fairly and ethnically represent his client.

10
11 **III. CONFLICT OF INTEREST**

12 On October 24, 2024, the Commonwealth submitted a Notices of Conflict as to counsel for
13 the Defendant. The Commonwealth alleged that evidence showed connections between
14 Defendant and former Governor Ralph DLG Torres (“Torres”). The Defendant was a contractor
15 and a BOOST program manager. Simultaneously, he was an officer and a campaign member of
16 Former Governor Torres’s political party. The Defendant’s co-counsel represents Former
17 Governor Torres in *Commonwealth of the Northern Mariana Islands v. Ralph Anthony Deleon*
18 *Guerrero Torres*, Superior Court Criminal Case. No. 22-0050 (April 8, 2022). J. Torres is Former
19 Governor Torres’ brother; J. Torres also represents former Governor Torres in another criminal
20 case, *Commonwealth of the Northern Mariana Islands v. Ralph Anthony Deleon Guerrero Torres*,
21 Superior Court Criminal Case. No. 23-0127 (October 27, 2023). The Commonwealth argued that
22 these facts generate concurrent conflicts of interest as to J. Torres.

1 **a. Legal Standard**

2 The Sixth Amendment of the United States Constitution entitles defendants in criminal
3 cases to the right to effective assistance of counsel. *See* U.S. Const. amend. VI. Effective
4 assistance of counsel “includes a right to conflict-free counsel.” *United States v. Mett*, 65 F.3d
5 1531, 1534 (9th Cir. 1995).

6 “A lawyer shall not represent a client if the representation involves a concurrent conflict of
7 interest. A concurrent conflict of interest exists if . . . there is a significant risk that the
8 representation . . . will be materially limited by the lawyer's responsibilities to another client . . . or
9 by a personal interest of the lawyer.” *See* MODEL RULES OF PRO. CONDUCT R. 1.7(a)(2) (AM. BAR
10 ASS’N 2024). “A lawyer may represent . . . [such] client[s] if . . . each affected client gives
11 informed consent, confirmed in writing.” *See id.* (b)(4). However, “some conflicts are
12 nonconsentable.” *See id.* cmt. 14. “Consentability is typically determined by considering whether
13 the interests of the clients will be adequately protected if the clients are permitted to give their
14 informed consent to representation burdened by a conflict of interest.” *Id.* cmt. 15.

15 Some courts are reluctant to accept informed consent if representation is ongoing. In
16 California, “the rule of disqualification in simultaneous representation cases is a per se or
17 ‘automatic’ one.” *See Flatt v. Superior Court*, 885 P.2d 950, 955 (Cal. 1994) (*quoting Cinema 5,*
18 *Ltd v. Cinerama, Inc.*, 528 F.2d 1384, 1387 (2d Cir. 1976): “Where the [attorney-client]
19 relationship is a continuing one, adverse representation is prima facie improper.”).

20 Other Courts allow counsels with potential conflicts to defend their representation. If a
21 consentable conflict exists, the courts require a hearing in which they fully appraise defendants of
22 the conflict and all its potential consequences. *See United States v. Garcia*, 517 F.2d 272, 277-78
23 (5th Cir. 1975); *see also United States v. Wellington*, 417 F.3d 284, 291 (2d Cir. 2005) (“the . . .
24 court should address each defendant personally and forthrightly advise him of the potential

1 dangers of representation by counsel with a conflict of interest.”). Representation may continue
2 once the Court is satisfied that Defendants have knowingly provided written informed consent.

3 Under the law of the case doctrine, "courts are generally required to follow legal decisions
4 of the same or a higher court in the same case." *Wabol v. Villacrusis*, 4 NMI 314, 318 (1995)
5 (citation omitted). The guiding principle behind the doctrine is one of finality. *Id.* The Law of the
6 case doctrine is "to maintain consistency and avoid reconsideration of matters once decided during
7 the course of a single continuing lawsuit[.]" *Cushnie*, 2000 MP 7 ¶ 12, 6 N. Mar. I. 97 (quotation
8 marks omitted), and to protect the Court and the parties from "repeated reargument by indefatigable
9 diehards." *Camacho v. J. C. Tenorio Enter.*, 2 NMI 407, 414 (1992) (citation omitted). This
10 doctrine, however, is "not an inflexible rule." *Cushnie*, 2000 MP 7 ¶ 13, 6 N. Mar. I. 97; *see also*
11 *Arizona v. California*, 460 U.S. 605, 618 (1983) ("[L]aw of the case is an amorphous concept. . . .
12 Law of the case directs a court's discretion, it does not limit the tribunal's power.") (citations
13 omitted); *Pepper v. United States*, 562 U.S. 476, 506-07 (2011) ("[T]he [law of the case] doctrine
14 does not apply if the court is convinced that [its prior decision] is clearly erroneous and would work
15 a manifest injustice.") (third alteration in original) (citation and internal quotation marks omitted).

16 **b. Discussion**

17 Both *CNMI v. Ralph Torres* cases, the present case, and other active criminal investigations
18 known to J. Torres all involve allegations of financial impropriety carried on during the
19 administration of Defendant Torres with his cooperation, knowledge, or direction. Here, J. Torres’s
20 conflict involves ongoing criminal investigations linked to alleged financial misconduct during
21 Former Governor Torres’s administration. The conflicted firm (representing Torres Brothers)
22 appeared late in the proceedings, but the conflict is well-documented, involving Former Governor
23 Torres’s direct authority over the implicated program (BOOST).

1 Former Governor Torres’s name and signature are on the notices of awards, the agreements,
2 and the solicitations. Public hearings and evidence have repeated the degree to which Former
3 Governor Torres was the authority and decision-maker for the program. A prolonged process of
4 briefs and counter-briefs is unnecessary, as the conflict details are straightforward and public. If the
5 Court deems the conflict containable, the Defendant should submit written consent and receive
6 required warnings before trial to avoid delays.

7 This Court has handled conflicts recently through hearings and waivers. The conflict of
8 interest regarding concurrent representation by J. Torres with Former Governor Torres and another
9 criminal defendant related to a conspiracy for misuse of public funds case was recently dealt with
10 by the Superior Court in ongoing litigation. *See Orders, Commonwealth vs. Nick Masga Reyes and*
11 *Chuilian Fu* Superior Court Criminal Case No. 24-0009, Associate Judge Teresa Kim-Tenorio, pp.
12 4-7, (July 17, 2024). Opposing the Commonwealth’s notice of conflict, counsels for the Defendants
13 noted that they could waive such concurrent conflicts of interest by written informed consent. *See*
14 *Fu’s Opp. to Notice of Conflict*, 8 (June 24, 2024); *see also Reyes’ Opp. to Notice of Conflict*, 4
15 (June 24, 2024).

16 In that case, Associate Judge Kim-Tenorio, “Finding automatic disqualification
17 extreme...held a hearing in which it “address[ed] each defendant personally and forthrightly
18 advise[d] him of the potential dangers of representation by counsel with a conflict of interest.” *Id.*
19 (citations omitted). At the hearing, Kim-Tenorio found “the conflicts consentable, [and]
20 informed...Defendants that the conflicts might render their counsels reluctant to provide
21 unconflicted advice on issues involving Torres. These issues included plea agreements, including
22 offers of immunity for testimony against Torres, and evidence or testimony that aids [defendants] in
23 their Defense but harms Torres in current or future criminal matters.” The Court then ordered the
24 Defendant to “submit informed consent as to the conflicted representation in writing.” *Id.*

1 Compared to the *Reyes and Fu* case, the conflict of interest in this matter was raised after
2 new evidence surfaced, and the Court required sealed disclosure of this evidence. The conflicted
3 firm here appeared after the close of business on the day before the pretrial hearing. The conflict –
4 to wit, the interests of Former Governor Torres in the BOOST investigation and any criminal
5 proceedings based on the program with his associates- does not require informing the Court of
6 evidence unknown to it.

7 IV. CONCLUSION

8 In light of the preceding findings, the Court finds that the Commonwealth's Mot. to Quash
9 for Kingman is not well-founded. The established norms and legal precedents support the denying
10 the Mot. to Quash to preserve the integrity of the adversarial system, the errors of the current
11 prosecutor, and the fact that the prosecutor is an essential witness. Accordingly, it is hereby
12 ORDERED that the Commonwealth's Mot. to Quash for is **DENIED**.

13 Kingman should not remain the Prosecutor for this matter to ensure procedural integrity
14 and due process for all parties throughout the Court. Accordingly, it is hereby ORDERED that the
15 Cross-Mot to Recuse Kingman is **GRANTED**.

16 The Court formally reprimands Kingman and fines him **five hundred (\$500.00) dollars** to
17 be payable to the CNMI Superior Court at the Guma Hustisia, Susupe, before **December 27** for
18 violation of MRPC 3.8, which includes abusing his prosecutorial power and authority, which led to
19 his forced recusal for bias and lack of impartiality; it is hereby **ORDERED**.

20 The Court formally reprimands Chambers and fines him **five hundred (\$500.00) dollars** to
21 be payable to the CNMI Superior Court at the Guma Hustisia, Susupe, before **December 27** for
22 violations of MRPC 3.4 and MRPC 8.4, which includes harming the administration of justice and
23 wasting resources by withholding crucial information and inconveniencing other parties; it is
24 hereby **ORDERED**.

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The Court requests that Defendant present the signed waiver that advised him of his rights and the potential dangers of continued representation and elect to retain signed counsels. The Court orders that the Defendant submit written informed consent regarding the conflicted representation. The Defendant shall submit informed consent in writing (pursuant to American Bar Association MODEL RULES OF PRO. CONDUCT R. 1.7) no later than **December 27, 2024**.

IT IS SO ORDERED this 4th day of December, 2024.

/s/
KENNETH L. GOVENDO
Associate Judge