

JUDGES' ORIENTATION TOOLKIT - ADDITIONAL DOCUMENTATION

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SAMPLE POWERPOINT PRESENTATION 1: INTRODUCTION AND WELCOME

PACIFIC JUDICIAL
DEVELOPMENT PROGRAMME

JUDICIAL ORIENTATION COURSE


Pohnpei: Sun 8 - Fri 13 June 2014

Introduction and Welcome
Sunday 8 June: 4:00 - 5:00pm
Opening Panel Discussion



1


Purpose



The purposes of this orientation course are to:


1. promote competence by assisting lay judicial officers to perform your judicial duties
2. improve the quality of justice you deliver in the municipal courts of FSM.

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Workshop approach



The focus of this course is to develop 3 key qualities:

1. *judicial knowledge*
2. *skills*
3. *ethical attitudes*

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Objectives



1. Share, exchange and develop professional experience
2. Develop judicial knowledge, skills, attitudes, and promote understanding of the judicial role
3. Develop effective techniques of courtroom control
4. Familiarise basic principles and practice of procedural fairness
5. Explain the special interests of parties coming to court
6. Strengthen judicial identity and develop a national resource network.

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Your Training Team

Who are we?




Facilitators

- 1) JUDGE Juan Benigno Rodriguez, Chief Justice Palaguer Supreme Court
- 2) JUDGE Juan, Medeiros, Judge, Associate Justice, Palaguer Supreme Court
- 3) JUDGE LA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 4) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 5) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 6) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 7) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 8) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 9) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 10) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 11) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 12) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
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- 15) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 16) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 17) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 18) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 19) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court
- 20) JUDGE SA, De Lencastre, Associate Justice, Palaguer Supreme Court

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Arrangements



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Participants

Who are you and what do you need?



1. Name and state
2. Current role(s)
3. Years of experience in role
4. Prior training
5. Expectations for this course

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Agenda

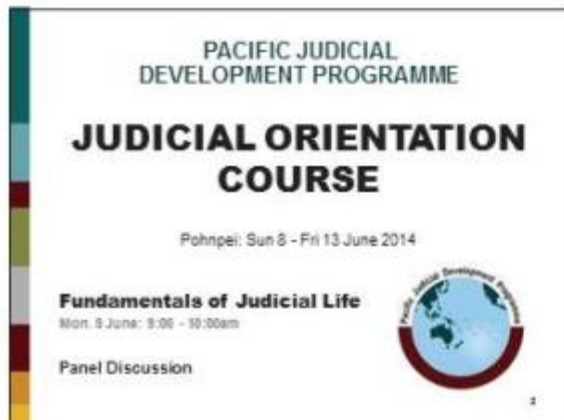


Local Orientation Workshop
10th November 2014
10:00 AM - 12:00 PM
12:00 PM - 1:00 PM
1:00 PM - 2:00 PM
2:00 PM - 3:00 PM
3:00 PM - 4:00 PM
4:00 PM - 5:00 PM
5:00 PM - 6:00 PM
6:00 PM - 7:00 PM
7:00 PM - 8:00 PM
8:00 PM - 9:00 PM
9:00 PM - 10:00 PM
10:00 PM - 11:00 PM
11:00 PM - 12:00 AM

Time	Topic	Facilitator	Notes
10:00 AM	Local Orientation Workshop	Judge Benigno Rodriguez	10:00 AM - 12:00 PM
12:00 PM	Lunch		12:00 PM - 1:00 PM
1:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	1:00 PM - 2:00 PM
2:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	2:00 PM - 3:00 PM
3:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	3:00 PM - 4:00 PM
4:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	4:00 PM - 5:00 PM
5:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	5:00 PM - 6:00 PM
6:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	6:00 PM - 7:00 PM
7:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	7:00 PM - 8:00 PM
8:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	8:00 PM - 9:00 PM
9:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	9:00 PM - 10:00 PM
10:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	10:00 PM - 11:00 PM
11:00 PM	Local Orientation Workshop	Judge Benigno Rodriguez	11:00 PM - 12:00 AM

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SAMPLE POWERPOINT PRESENTATION 2: FUNDAMENTALS OF JUDICIAL LIFE



SAMPLE POWERPOINT PRESENTATION 3: JUDICIAL CONDUCT AND ETHICS

PACIFIC JUDICIAL
DEVELOPMENT PROGRAMME

JUDICIAL ORIENTATION COURSE


Pohnpei: Sun 8 - Fri 13 June 2014

Judicial Conduct & Ethics
Monday 9 June: 11:35 - 12:15pm

Kapilly Capelle & Livingston Armytage



Judicial ethics



1. What are ethics?
2. How are they different to:
 1. Laws?
 2. Morals?
 3. Community practices?
3. Why are they important?

Question:

Do you trust this man?




Bangalore Principles

What are they?



1. Independence
2. Impartiality
3. Integrity
4. Propriety
5. Equality
6. Competence and diligence


Objective of session




The purposes of this session is to:

1. Highlight the importance of judicial ethics
2. Explain the Bangalore Principles.

Case study examples

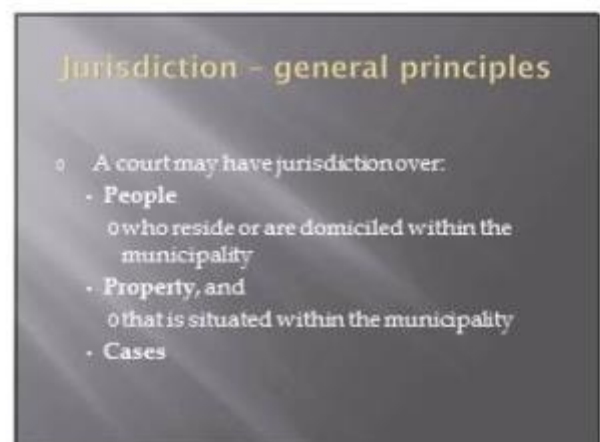
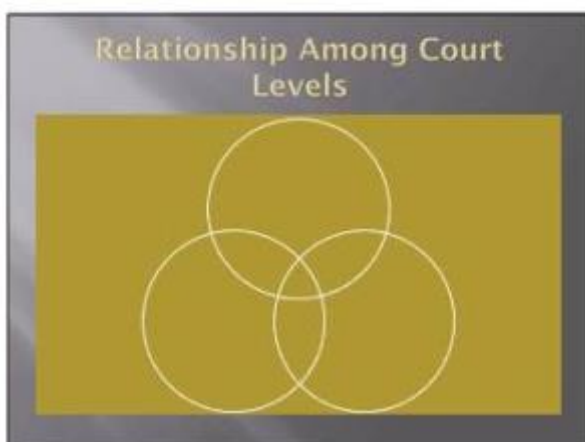
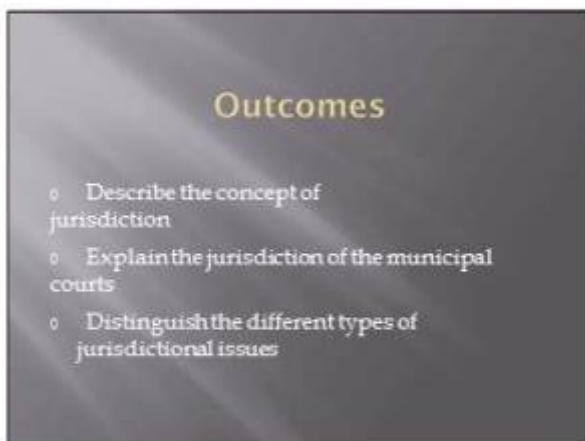


Exercise



1. Explain why judges should be ethical
2. Outline the major parts of a code of judicial conduct

SAMPLE POWERPOINT PRESENTATION 4: FSM MUNICIPAL COURT



Types of Jurisdiction

- 1. **General or Specific**
 - **General:** the court may hear all cases not restricted by the Constitution or by statute
 - E.g. State Courts
 - **Specific:** jurisdictional limits are set forth in the Constitution or by statute
 - E.g. FSM National Court Municipal Courts
- 2. **Exclusive or Concurrent**
 - **Exclusive:** it is the ONLY court that can legally decide the case
 - E.g. FSM National Court alone can hear cases affecting officials of foreign gov'ts, disputes between states, admiralty/maritime cases, and cases where the national gov is a party except where land is at issue
 - **Concurrent:** when two or more courts can legally decide the case

Appellate process explained

- When a case is appealed, the higher court will either affirm or reverse the decision of the lower court
 - **Affirm** - the higher court agrees with the lower court's judgment
 - **Reverse** - the higher court disagrees and is overturning the lower court's judgment
- Yap/Pohnpei State Courts are courts "of record"
 - this means that they are legally required to keep records of cases, filings, and proceedings

Jurisdiction of yap and pohnpei municipal courts

- **Yap (Code Title 4, §162)**
 - **Civil**
 - over the whole municipality
 - over natural persons residing or domiciled in the municipality
 - over property within the municipality where the parties are natural persons
 - **Criminal**
 - As prescribed by statute (none)
- **Pohnpei**

Appellate process ctd.


- State Trial Courts conduct an appeal "**De Novo**" (new)
 - this means the State Court begins a new trial including any new testimony and evidence
 - the Municipal Court's record will still be considered
- Appellate Courts conduct an appeal **without considering new evidence**
 - only the lower court's record will be used
 - the lower court's decision will be reversed only if it was "Clearly Erroneous"
 - that no evidence in the record supports their decision

Appeals

- **Definition:**
 - an appeal is when a party asks a higher court to review the decision of a lower court
 - Yap State Code Title 4, §147, Pohnpei Municipal Code...
- **Removal**
 - when a higher court transfers jurisdiction of a case from the jurisdiction of a lower court
 - Yap State Code Title 4, §166, Pohnpei Municipal Code...
- **Remand**
 - when a higher court transfers jurisdiction of a case to a lower court

THANK YOU

SAMPLE POWERPOINT PRESENTATION 5: COURT MANAGEMENT



PACIFIC JUDICIAL DEVELOPMENT PROGRAMME


Local Orientation Pilot Program

09-13 May, 2014
Peilapalap, Pohnpei

Samuel Bailey, Esq.
Counsel, Guam Judiciary
(Former Counsel, FSMJC)

Kapitiy Capelle
Director, FSM JC
PJDP RTT Member

1




OUTCOMES:

At the end of the session the participants will be able to :

- 1) state the purpose and responsibilities of court
- 2) define four management principle tasks with examples
- 3) list judicial and administrative responsibilities

4




Session 5

Court Management

09 June, 2014
Pohnpei, FSM


2



Session Overview:

- * What is a Court, its purpose and responsibilities.
- * Review four(4) Management principle tasks and examples of each task.
- * Discuss what are the judicial responsibilities and administrative responsibilities
- * Quiz


3



Objectives:

- 1) Explain court's purpose and responsibilities
- 2) Describe four management principle tasks
- 3) Discuss judicial and administrative responsibilities

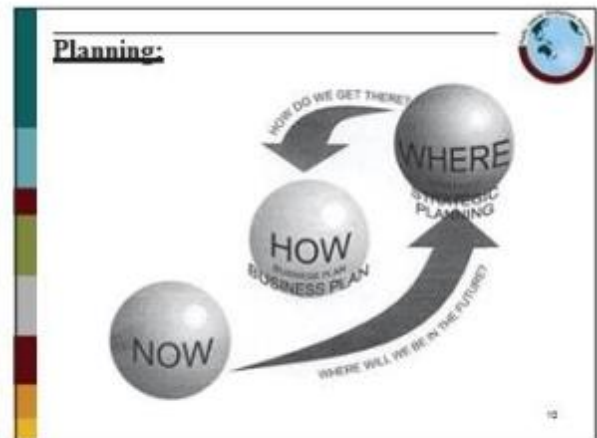
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A Court

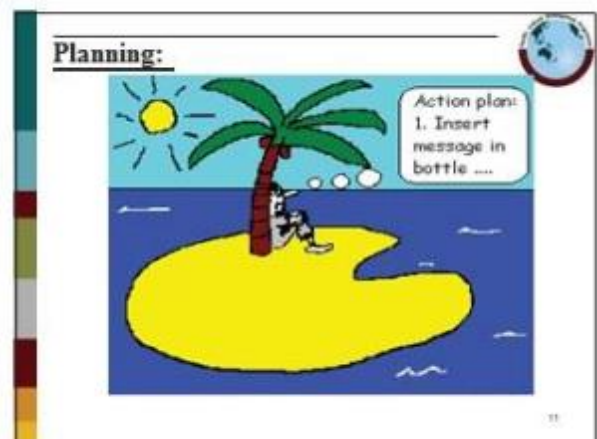
- *often a governmental institution.
- *a tribunal with the authority to judge
- *medium, central mean and venue for resolving legal disputes .

4



Court's purpose and responsibilities:

Courts exist to do justice by resolving disputes, penalize and deter crime, administering law, ensuring due process of law, providing for equal protection, guaranteeing liberty, maintaining rule of law, enhancing social order,



What is Management?

Planning,

Organizing,

Leading,

Controlling

Planning:

Court Needs?

Judicial needs

Administrative needs

Organizing



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Leading:

- Setting high standard of conduct for self
- Consistent and always present
- Give high priority to duty
- Conduct meetings to keep employees informed of priorities and direction
- Delegate responsibility
- Know your employees

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Organizing

- *Creating committees to oversee new initiatives and/or projects.
(i.e. Development and Implementation of Strategic Plan, IT etc.)
- *Establishing internal procedures (policy) on case filing, case assignments and calendaring.
- *Developing manuals of procedures for services and functions
- *Others

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Leading:

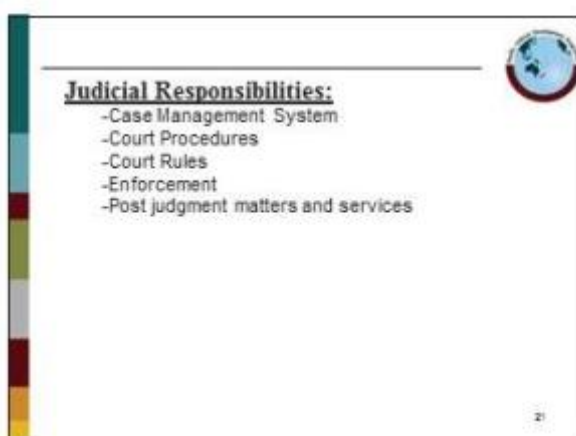
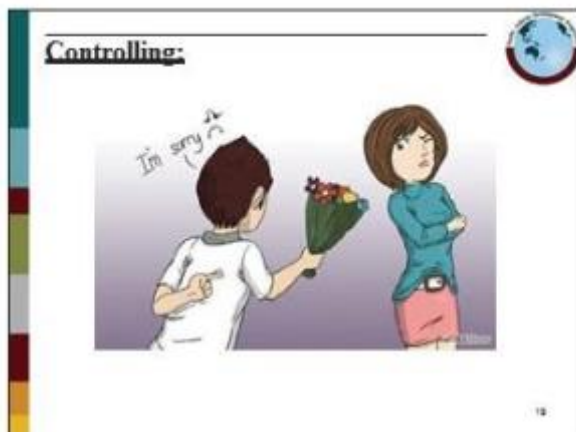


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Controlling:

- Employee Performance Evaluation
(Consistently acknowledge good behavior and discipline bad behavior)
- Judicial and Employee Codes of Ethics
- Reporting (Cases, Finances, Accomplishments)
- Internal Auditing
- Inventory

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SAMPLE POWERPOINT PRESENTATION 6: LEADERSHIP PRINCIPLES


PACIFIC JUDICIAL
DEVELOPMENT PROGRAMME

JUDICIAL ORIENTATION COURSE

Pohnpei: Sun 8 - Fri 13 June 2014


Leadership Principles
Monday 9 June: 3:30 - 4:30pm

Livingston Armytage, PJDP



1

Some definitions




My definition of a leader . . . is a man who can persuade people to do what they don't want to do, or do what they're too lazy to do, and like it.

Harry S. Truman, 1884-1972, Thirty-third President of the United States,

The first job of a leader is to define a vision for the organization. . . . Leadership is the capacity to translate vision into reality.

4

Objective of session




The purposes of this session is to:

1. Explain judicial leadership
2. Explore where leadership is needed.

2


Goals of Leadership



- Courts perform constitutional role
- Judiciary serves community, addresses needs
- Improve justice delivery system:
 - Fair
 - Accessible to all
 - Independent and accountable
 - Efficient and timely
 - Competent
- Raise public trust

3


What is Judicial Leadership?



1. Who is a leader?
2. What do leaders do?
3. How to leaders lead?


3

Six qualities



1. Promoting justice:
 - promoting accessibility, responsiveness, fairness, efficiency
 - for court users and community: non-users are potential claimants of rights
2. Concern to bring to life the values of justice enshrined in the Constitution
3. Focus on judicial excellence and highest qualities of justice
4. Attitude or outlook to **proactively solve problems** that impair the quality of justice
5. Reforming - continuous improvement – in the administration of justice
6. Actions (personal + institutional) to deliver 'more just' outcomes

4




Six behaviours

What leaders do ...

1. Provide vision and context for the changes to be made
2. Are prepared to take risks
3. Have conviction
4. Model the behaviour that the desired changes will bring
5. Communicate the changes in ways that engage and influence others
6. Build relationships and trust in the organisation

7



Your action plan

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So, what are the needs for leadership in FSM?

Diagnosis – judicial sector assessments:

- Delay – problem or symptom?
- Access to justice
- Legal empowerment
- Independence and integrity
- Capacity-building
- Service delivery
- Change management
- Quality of justice

Y Needs for judicial leadership.

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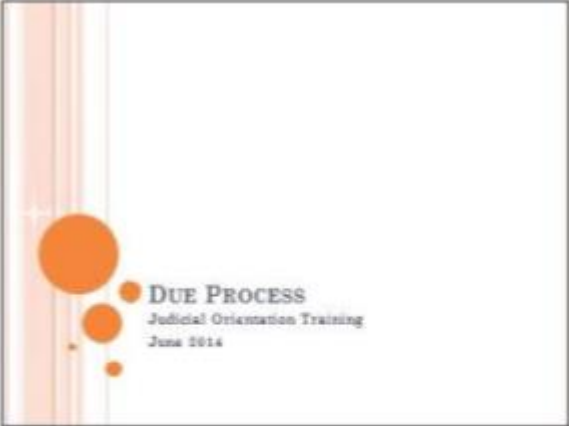

Exercise

So, what are the needs for leadership in FSM?

- Access to justice?
- Delay?
- Independence and integrity?
- Training?
- Service delivery?
- Legal empowerment?
- Change management?
- Quality of justice?
- Others ...?

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SAMPLE POWERPOINT PRESENTATION 7: DUE PROCESS

	<h3>THE GOVERNMENT</h3> 
<h3>LEARNING OUTCOMES</h3> <ul style="list-style-type: none"> Identify the section of the FSM Constitution that serves as the basis for the right to Procedural Due Process Know what constitutes the Notice requirement Know what constitutes the Opportunity To Be Heard requirement 	<h3>DUE PROCESS – SOURCE/AUTHORITY</h3> <ul style="list-style-type: none"> FSM Constitution Article IV § III <ul style="list-style-type: none"> A person may not be deprived of life, liberty, or property <u>without due process of law</u>, or be denied the equal protection of the laws. All 4 States have the Due Process Clause in their constitutions The Constitution is the Supreme Law of the Land, anything in conflict with the Constitution will be deemed unconstitutional
<h3>STRUCTURE OF THIS SESSION</h3> <ul style="list-style-type: none"> FSM Constitution Notice Opportunity To Be Heard Class Exercise 	<h3>DUE PROCESS</h3> <p>What is Due Process about?</p> <ul style="list-style-type: none"> In plain English terms, it is about <u>Fundamental Fairness and Natural Justice</u>. Also, to <u>Prevent</u> the government from making an <u>Erroneous Decision</u>.
<h3>NATURAL JUSTICE</h3> <ul style="list-style-type: none"> The rule against bias and the right to a fair hearing. <ul style="list-style-type: none"> The basis for the rule against bias is the need to maintain public confidence in the legal system. The right to a fair hearing requires that individuals should not be penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their own case. 	<h3>DUE PROCESS</h3> <p>PROCEDURAL DUE PROCESS SAMPLE</p> <ul style="list-style-type: none"> Barack Obama is employed by the Kolonia Town Government as a police officer, and has been employed for 5 years. Obama is sick with the flu and does not come to work for 5 days. He does not have any sick leaves. When Obama comes back to work, the police chief tells him to complete a report on a crime within three days. Obama does not complete the report after three days. The following week, the police chief tells Obama to gather his belongings and go home because he has been fired. <p>Keep these facts in mind as we go through Procedural Due Process</p>

2 TYPES OF DUE PROCESS

- Substantive Due Process
 - Rationale or legitimacy of government interest
- Procedural Due Process
 - Notice
 - Opportunity to be Heard

PROCEDURAL DUE PROCESS

- Notice
 - That something has been, or is going to happen to you by the Government.
- Opportunity to be Heard
 - A chance to present your side of what happened.

SUBSTANTIVE VS. PROCEDURAL DUE PROCESS EXAMPLE

- John Rambo has a claim filed against him in the Pohnpei Supreme Court for back child support. The Pohnpei State Legislature passed a law in 2012 to enforce child support payments to protect the welfare of children born out of wedlock. Without going through the judicial process, an Order was entered against John Rambo for back child support payments.
 - Substantive Due Process
 - The government's legitimate interest in enacting and enforcing Child Support to protect children born out of wedlock.
 - Procedural Due Process
 - The Order entered against John Rambo without going through the judicial process.

NOTICE

- Must be informed as to WHY a certain action is being taken.
 - In writing
 - Facts
 - What happened?
 - Based on Authority
 - For example, if an employee is AWOL (absence without leave), then he is in violation of Section 10.5 of the FSM Public Service System Regulations.
 - Be given an opportunity to Appeal
 - 52 F.S.M.C. 104 requires that an appeal be filed with the FSM Personnel Officer within 15 calendar days of notice.
 - If you don't file an appeal, it may constitute a waiver.

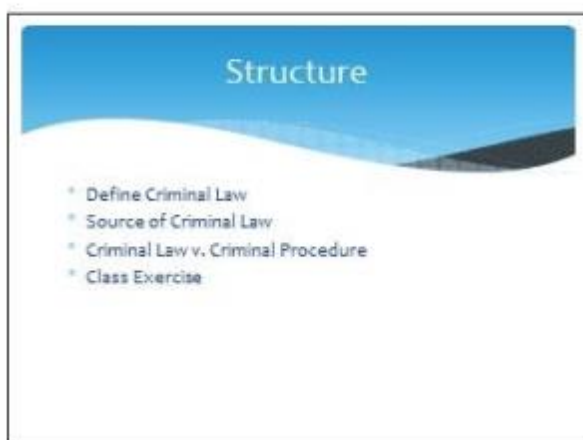
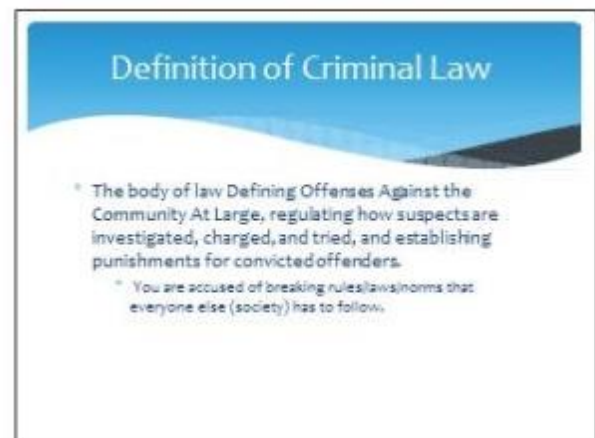
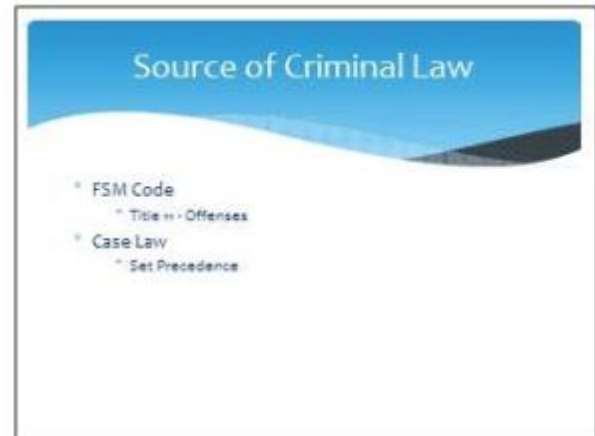
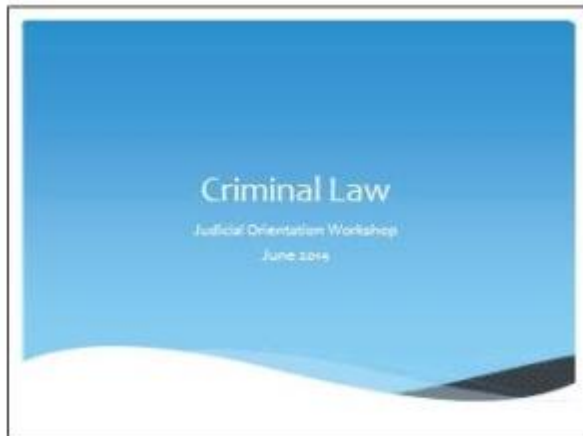
OPPORTUNITY TO BE HEARD

- Hearing – 52 F.S.M.C. 155
 - Neutral Tribunal
 - 52 F.S.M.C. 153 governs the configuration of an appeal panel – Ad Hoc Committee
 - Submit Evidence
 - Confront Witnesses
 - Recorded
- Recommendation made by the tribunal to either **Uphold or Reverse** the termination
- If not satisfied with the decision, file with the Court
 - Failure to Exhaust Administrative Remedies issue

DUE PROCESS CLASS EXERCISE

- Jet Li owns a parcel of land in Kittu. Jackie Chan owns the parcel next to Jet Li's land. There is a portion of land below the two parcels that is in dispute as to ownership. Jet Li claims he bought the land from Bruce Lee. Jackie Chan says that Bruce Lee gave it to him as a gift. Notice of a meeting and land survey for all land owners in the area was given, and a survey team surveyed the land. Based on this survey, ownership was given to Jackie Chan. Jet Li was not present during the meeting and the survey. **Is there a violation of Due Process? If yes, if you were the Judge, what would your Judgment be?**

SAMPLE POWERPOINT PRESENTATION 8: CRIMINAL LAW



Burden of Proof Onus of Proof Burden of Persuasion

- Proof Beyond a Reasonable Doubt
 - The standard that must be met by the prosecution's evidence in a criminal prosecution: that no other logical explanation can be derived from the facts except that the defendant committed the crime, thereby overcoming the presumption that a person is innocent until proven guilty.

Elements of a Crime

- Pay specific attention to the language of the law.
 - "and", "or", "may", "shall", etc.

Definition of Elements of a Crime

- element of a crime is one of a set of facts that must all be proven to convict a defendant of a crime. Before a court finds a defendant guilty of a criminal offense, the prosecution must present evidence that, even when opposed by any evidence the defense may choose to present, is credible and sufficient to prove beyond a reasonable doubt that the defendant committed each element of the particular crime charged.

Elements (Examples)

Murder <ul style="list-style-type: none"> Killing of Another with Malice Aforethought (premeditation, intent, motive) 	Robbery <ul style="list-style-type: none"> Illegal taking of another's property By violence or intimidation
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Elements of a Crime

The Constituent Parts of a Crime

- Mens Rea (Guilty Mind)
- Actus Rea (Guilty Act)
- Causation

Murder

- Michael Jackson finds out that Chuck Norris stole one of his pigs. Michael knows that Chuck works at Telecom. The next day after Chuck stole the pig, Michael goes to Telecom with a knife, and waits in the parking lot. Thirty minutes later, Chuck walks out, Michael runs towards him yelling "Chuck, you thief, I'm going to kill you," and stabs Chuck to death. Is Michael guilty of Murder?
- Murder: Killing, of Another, with Malice Aforethought (Premeditation, intent, Motive)

Robbery

- Magic Johnson runs into the Bank of FSM, pulls out a gun, throws an empty bag at one of the tellers, and demands money. The teller, Michael Jordan, tells Magic "It's not too late for God to forgive you, put down the gun." Magic has a change of heart, drops the gun, and runs out of the bank. Is he guilty of Robbery?
- Robbery = Illegal, taking of another's property, by violence or intimidation

Elements (Examples)

<p>11 FSMC 1003 (1) (a) (b)</p> <p>" (1) A person commits the crime of conspiracy if he or she agrees with one or more persons to:</p> <p>(a) commit any crime; <i>and</i></p> <p>(b) any party to the conspiracy commits an overt act in furtherance of the conspiracy.</p>	<p>11 FSMC 1002 – (Illegal Possession of Firearm</p> <p>" No person shall manufacture, purchase, sell, possess <i>or</i> carry any firearm, dangerous device, <i>or</i> ammunition other than as hereinafter provided.</p>
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Class Exercise

* Elvis lives at Nihco Marine Park. One evening, he gets drunk, walks out into the middle of the road, and starts yelling, swearing, and throwing rocks. The traffic on the road is backed up because of the disturbance. Elvis is arrested by the Pohnpei State Police.

Class Exercise

1. [100] Quarterly seminar.

- (1) panel with, not more than six, public international lawyers, or each, or members, meeting, once a year;
- (2) topics in lighting and colors, tumultuous and threatening behavior; or
- (3) topics, unpredictable, none; or
- (4) in a public place, conditions, or elements (light, air, noise, or elements, conditions);
- (5) through local authority, conducts any local assembly, or meeting, or persons; or
- (6) without, without, or possession, nothing; or
- (7) through, with other persons, in a public place, and refuse to comply, with a local order, or the place to be entered; or
- (8) through a tribunal, or tribunal, otherwise, without, by any, or other means, no, or times, purpose;

(9) shall be, fully, or elements, seminar, and upon occasion, thereof, shall be, improved, the, person, or not, more, than, six, months, or there, not, more, than, five, or each, with, the, and, improvement;

Source: L. H. 20195 (1974-1975)

Exercise

- ° What may Elvis be charged with?
- ° If you were the Judge, and you find him guilty, what would your sentence be?

SAMPLE POWERPOINT PRESENTATION 9: SENTENCING PRINCIPLES AND PRACTICES

<p>Sentencing Principles and Practices</p> <p>ORIENTATION WORKSHOP FSM MUNICIPAL AND ISLAND COURT JUDGES</p> <p>DATE: JUNE 9-13, 2014</p> <p>VENUE: GOVERNOR'S CONFERENCE ROOM</p>	<p>Structure</p> <ol style="list-style-type: none"> 1- What are the principles of sentencing? 2- What are the purposes of sentencing 3- What are your sentencing tools?
<p>OBJECTIVES</p> <p>The Learning objective of this session are:</p> <ol style="list-style-type: none"> 1- Define principles of sentencing 2- Explain 5 goals/ purposes of sentencing 3- List what are the available sentencing tools 	<p>Principles of sentencing</p> <ol style="list-style-type: none"> 1. Least restrictive to accomplish goals 2. Let the punishment fit the crime 3. Don't do the crime if you can't do the time 4. Eye for an eye 5. Balance of overall sentencing consistency and appropriate individual concerns
<p>Outcomes</p> <p>That participants will be able to reasonably:</p> <ol style="list-style-type: none"> 1- Define principles of sentencing 2- Explain 5 goals/ purposes of sentencing 3- List what are the sentencing tools 	<p>What are the goals/purposes of sentencing</p> <ol style="list-style-type: none"> 1- Retribution 2- Restitution 3- Rehabilitation 4- Removal 5- Deterrence
<p>1-Retribution</p> <ol style="list-style-type: none"> a- If a person has knowingly done wrong, he deserves to be punished b- Payback c- Eye for an Eye d- Revenge 	<p>4-Removal</p> <ol style="list-style-type: none"> a. Imprisonment, deprives offender of opportunity to cause crimes by removing from society b. Protects public c. Not a long-term solution to crime e- May be costly

2-Restitution/Restoration

- a-Compensate the victim for losses suffered.
- b-Restore victim to state before the offense
- c-Defendant caused harm and should repair the harm
- d-If not possible to calculate precise amount of loss, a reasonable estimate may be awarded

5-Deterrence

- a.Individual deterrence-The punishment deters the offender from future crime
- b.General deterrence-The punishment deters others from crime
- c.Public Safety d-Prevents crimes
- e- Public perception satisfied

3-Rehabilitation

- a.Modify offender's behavior and ways of thinking so he does not offend in the future
- b.Goal is to protect the public, not punish the offender
- c-Looks to future, not the past
- d-Justified through benefit to society by reducing crime
- e-Public may see it as "soft on crime"

Title 64 of Pohnpei State Code: Corrections and Rehabilitation

Subsection 1-101 of Chapter 1; provides that in imposing or suspending execution of sentence, due recognition shall be given to customs;

Subsection 1-102 of Chapter 1; provides that prior to imposing of sentence consideration be given to evidence of good or bad behavior, including prior criminal record of defendant.

Sentencing Tools

- 1-Imprisonment (Retribution, Deterrence & Removal)
- 2-Suspended Sentence
- 3-Probation (Reoffend, Public require harsher punishment & rehabilitation helped for not in jail)
- 4-Intermediate Confinement

Creative sentences

-For 15 years Defendant harassed his neighbor, who adopted two disable children. Offenses include drawing feces on neighbor's car windshield, and once urinated feces on wheelchair for the disable children. Defendant was sentenced to hold the sign for five hours on Sunday, serve 15 days in jail and seven months on probation. Defendant was ordered to complete 100 hours of community service, anger management classes and personal counseling

Sentencing Tools (2)

- 5-Suspended Imposition of sentence-
- 6-Fine
- 7-Restitution
- 8-Forfeiture
- 9-Community service
- 10-Work Release
- 11-Creative Sentences

Creative sentencing



Activity

In small group of 5 discuss;

- What sentencing tools or options are available in your jurisdiction?
- How effective are they?
- Appoint a spokesman to Report?

Review

- 1) Explain the Principles of Sentence
- 2) We discussed the purposes of sentencing and give examples of those 5 goals
- 3) We list several sentencing options / tools

End of Presentation

Thank you all so very much

AJ Nickomro Johnny	Belan Yoma	Kohak M. Keller
Associate Justice	NJO	CCOC
PSC	FSMSC	FSMSC

SAMPLE POWERPOINT PRESENTATION 10: EVIDENCE

Evidence

Judicial Orientation
Training
June 2014

Source of Evidentiary Rule in FSM

- FSM Rules of Evidence
 - Each State has Rules of Evidence that is identical to the FSM Rules of Evidence
- Case Law
 - Precedence

Outcomes

- To be able to identify the Source of Evidentiary Rule in the FSM
- Define Evidence
- Distinguish Admissible v Non Admissible Evidence
- Better understand Relevancy and Hearsay

Definition of Evidence

- Something (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.

Structure

- Source of Evidentiary Rule in the FSM
- Relevancy
- Direct Evidence
- Circumstantial Evidence
- Expert Testimony
- Hearsay

Admissible v Non Admissible

- Admissible
 - Admitted into evidence
- Non Admissible
 - Not admitted into evidence

Relevance

- Rule 401
 - evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Direct Evidence

- Evidence based on Personal Knowledge or Observation and that, if true, proves a fact without inference or presumption.

Relevancy Example

- Elvis lives at Nihco. He gets drunk one evening, goes out onto the road, and starts yelling, screaming and throwing rocks. Traffic is backed up in both direction because of the disturbance. David is arrested by the Pohnpei State Police for Drunk and Disorderly Conduct.
 - Relevant evidence:
 - » Testimony of Police officers
 - » Police report
 - » People in the community who heard or saw David
 - » Rocks thrown

Circumstantial Evidence

- Evidence based in Inference and not on personal knowledge or observation.

Some Types of Relevant Evidence

- Direct Evidence
- Circumstantial Evidence
- Expert Testimony
- Admission of Evidence Before Trial

Expert Testimony

- Evidence about a scientific, technical, or professional issue given by a person Qualified to testify because of Familiarity with the subject or Special Training in the field.
 - Rule 702

Admission of Evidence

- Trial
 - Parties Stipulate and Mark Exhibits

Hearsay Exceptions

Under Rule 801-806, there are 32 Hearsay Exceptions.

We will focus on Rule 803 (2) :

Excited utterance. A statement relating to a startling event or condition made while the declarant was *under the stress of excitement* caused by the event or condition.

Hearsay Definition - Rule 801 (c)

- "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

Hearsay example

- At a murder trial, Manny Alik testifies that on the night of the murder, Dohsis Yinug was talking to Manny on the phone, then all of a sudden, Dohsis yells "oh no, I just saw Martin Mori shoot George Bush. "
- Declarant = Manny because he is testifying as to what Dohsis told him
- Statement = "oh no, I just saw Martin Mori Shoot George Bush."

Hearsay

- Hearsay evidence is non admissible, **UNLESS**, it falls under one of many exceptions from Rule 801 to 806
- Hearsay video clip

Hearsay example

- Conclusion: Because Manny is testifying as to what Dohsis told him, this is Hearsay. However, under the Excited Utterance exception, because Dohsis's statement was made while observing Martin shoot George, the Excited Utterance exception applies, and the testimony is therefore admissible.

SAMPLE POWERPOINT PRESENTATION 11: CIVIL MATTERS



SOURCE AND AUTHORITY OF CIVIL LAW IN THE FSM

- FSM Rules of Civil Procedure
 - All 4 FSM States have similar Rules of Civil Procedure
- Case Law
 - Set Precedence on Civil Issues
 - FSM Dept. of Finance, et al., v. Udot Municipality

OBJECTIVES

- To know the source and authority of Civil Law in the FSM
- To be able to define Civil Law in the FSM
- Identify the Burden of Proof in Civil cases
- To know the common Remedies sought in Civil cases

DEFINITION OF CIVIL LAW

- Of or relating to PRIVATE RIGHTS and REMEDIES that are sought by action or suit, as distinct from criminal proceedings.

STRUCTURE

- Source and Authority of Civil Law
- Definition of Civil Law
- Burden of Proof
- Procedural Mechanisms
- Group Exercise

BURDEN OF PROOF IN CIVIL MATTERS

- "Preponderance of the Evidence"
 - The greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.
- "More likely than Not"
- "That one side has more evidence in its favor than the other."

CIVIL V. CRIMINAL

⊗ Burden of Proof

- Preponderance of the Evidence v. Proof Beyond a Reasonable Doubt
- What is at stake = Money v. Person's Liberty

CIVIL V. CRIMINAL MECHANISMS

• Some Procedural Mechanisms

- Counterclaims (Civil)
 - Plaintiff v. Defendant (Claim)
- Cross Claims (Civil)
 - Plaintiff v. Defendant 1 Defendant 2
- Constitutional Challenges (Criminal/Civil)
 - Search Warrant issued not based on Probable Cause
 - Violation of Due Process

CIVIL V. CRIMINAL

⊗ Judgment v. Verdict

- Judgment in favor of __ v. Guilty/Not Guilty

CIVIL V. CRIMINAL MECHANISMS

- Motion for Summary Judgment (Civil) Rule 56 (c)
 - No Genuine Issues of Material Fact
- Plea (Criminal)
- Motion to Dismiss Charges (Criminal)

CIVIL V. CRIMINAL

⊗ Time

- Article IV § VI - Right to Speedy Trial
- Criminal matters tend to move quickly
- Liberty v. Money

TYPICAL AREAS OF CIVIL LAW

⊗ Contracts

⊗ Torts

⊗ Property

⊗ Post Judgment/Collection

SOME REMEDIES IN CIVIL MATTERS

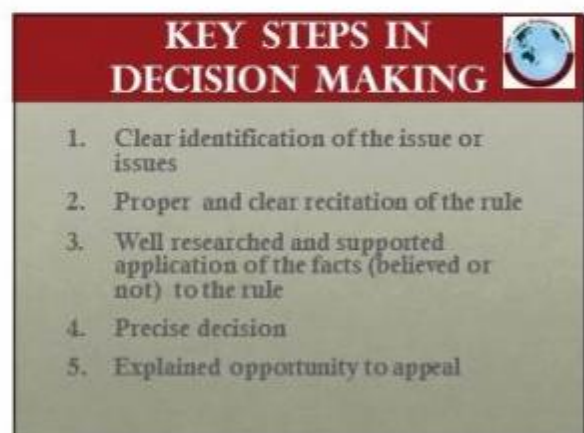
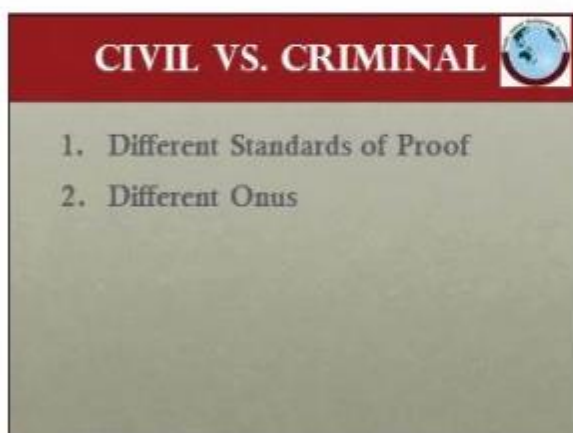
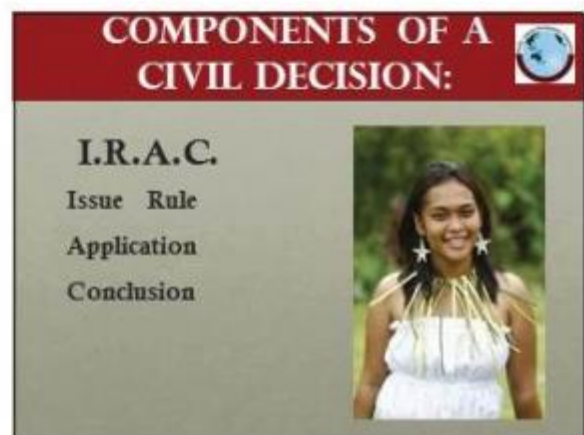
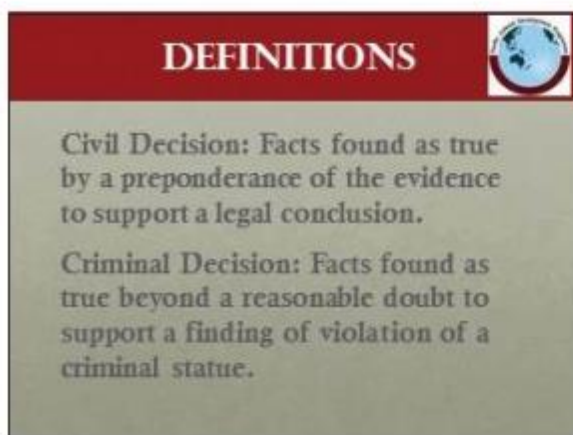
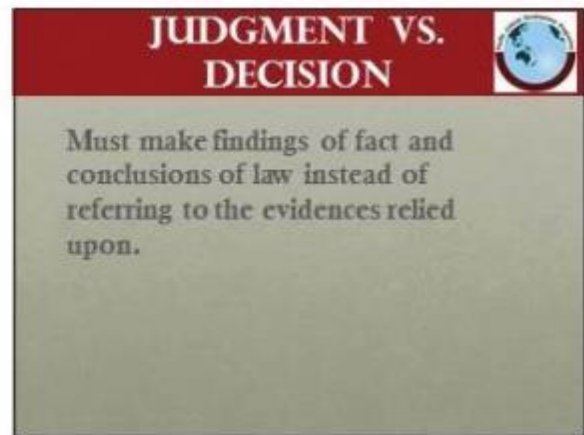
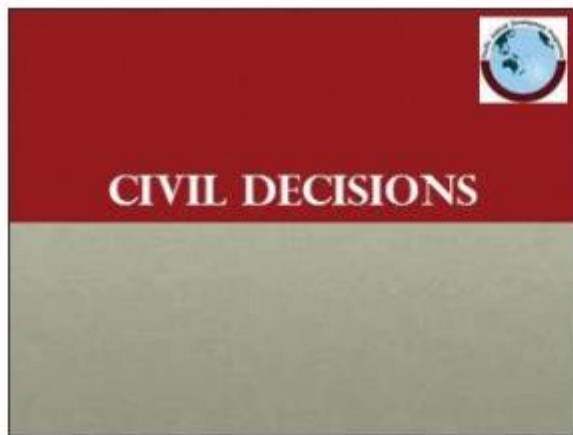
- Injunction
- Money Damages
- Restitution
- Specific Performance
- Order in Aid of Judgment (Post Judgment)
- Garnishment

- Rocky Balboa borrowed \$10,000 from the Bank of Guam. Rocky has not paid anything, he defaulted on the loan, and Judgment was entered in favor of the Bank. Rocky is employed by the FSM National Police and his take home pay is \$600 per month. Every month he spends \$300 on his necessities (food, kids tuition, fuel, living expenses, etc.), \$100 on family obligations, \$100 to maintain his pig pen and farm, \$50 on church activities, and \$50 on sakau. As the Judge, would you garnish any of Rocky's pay to apply towards the judgment? If so, how much?

6 F.S.M.C. 1409

- At any time after a finding for the payment of money by one party to another and before any judgment based thereon has been satisfied in full, either party may apply to the Court for an order in aid of judgment. Thereupon the Court, after notice to the opposite party, shall hold a hearing on the question of the debtor's ability to pay and determine the fastest manner in which the debtor can reasonably pay a judgment based on the finding. In making this determination the Court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage, or other similar group, in return for which obligations he, or his dependents, receive any necessary part of the food, goods, shelter, or services required for their living.

SAMPLE POWERPOINT PRESENTATION 12: CIVIL DECISIONS



I.R.A.C. SPOTTING EXERCISE


Motion for Summary Judgment

Motion to Continue

Motion to Dismiss

Motion for an Order to Show Cause

Video Clips




HYPOTHETICAL

- Penskin gets into an car accident with his wife Maileene while driving his taxi. Maileene files a complaint against Penskin for negligence. In her complaint Maileene alleges that at the time of the accident Penskin was texting while driving and that his failure to pay attention caused the car accident. Penskin files a motion to dismiss arguing he had no duty to his wife.

HYPOTHETICAL

- Island Development Bank files a complaint against Rohro for breach of contract when he fails to pay back his loan. Rohro files an answer where he admits he failed to pay back the loan but asserts he did not because he got in a car accident and is no longer able to work. Island Development Bank moves for summary judgment.



Summary: Plaintiff is seeking summary judgment on negligence.

Rule: Negligence.


Duty: Defendant has a duty to drive safely while driving.

Breach: Defendant breached that duty by texting while driving.

Causation: Plaintiff's injuries were caused by Defendant's breach.

RULE

- Motion for summary judgment:
 - No disputed issue of material fact
 - Entitled to judgment as a matter of law



Summary: Plaintiff is seeking summary judgment on negligence.

Rule: Negligence.


Duty: Defendant has a duty to drive safely while driving.

Breach: Defendant breached that duty by texting while driving.

Causation: Plaintiff's injuries were caused by Defendant's breach.


Conclusion: Defendant is liable for negligence.

RULES



- Motion to Dismiss:
 - Failure to state a claim upon which relief can be granted.
- Negligence:
 - Defendant owed plaintiff a duty
 - Defendant breached his duty
 - Defendant's breach proximately caused Plaintiff's harm
 - Defendant has measurable damages

TEST




Issue: Define issue

Rule: Recite the rule

Application: Apply facts to the legal rule



Conclusion: Decide

HYPOTHETICAL




- After Island Development Bank gets a judgment against Selino for \$5,000.00, in post judgment proceedings Selino agrees and the court orders that Selino has the ability to pay \$50 a month toward repayment of the judgment. Selino makes two payments and then stops. One year later the Bank moves and the court sets the matter for an order to show cause and the Bank requests that Selino be held in contempt.

TEST

RULES



- Motion for Order to Show Cause:
 - Facts which show the offending party had
 - a valid order
 - Had knowledge of the order
 - Had the ability to comply with the order
 - Failed to comply with the order

TEST






SAMPLE POWERPOINT PRESENTATION 13: COURT ROOM MANAGEMENT

COURT ROOM MANAGEMENT

WHO IS RESPONSIBLE?

RESPONSIBILITIES OF THE JUDGE

- Dress Code
- Media coverage rules: radio newspaper
- Courtroom Procedures (Clerks/Bailiffs)
- Courtroom Rules: eating, drinking, loud talking, cell phones, video, cameras
- Courtroom Assignments: attending court hearing rotation schedule
- JO or Bailiff's duties and responsibilities: court security, escort judge, call case, translate, administer oaths
- Clerk Duties: prepare files, attend hearing, manage exhibits and evidence, record proceedings
- Staff Attorney/Clerks: take notes, prepare draft decisions
- Public: attend hearings
- Timelines
- Maintenance

DISCUSSION AND APPLICATION

HYPOTHETICALS:

- Employee, litigant, attorney, boss, is not dressed properly for Court
- Newspaper or radio wants to cover court hearing
- Clerk or Bailiff or other support staff are falling asleep in court hearings
- Litigant or public are drawing pictures on Court property
- The papers in the file belong another case
- Parties were not served, only one party was served
- Construction outside the court
- Equipment or recording machine is not working

VIDEO CLIP




SMALL GROUP EXERCISE

- Develop a policy of timeliness, behavior, demeanor and dress, list standard for exceptions



VIDEO CLIP

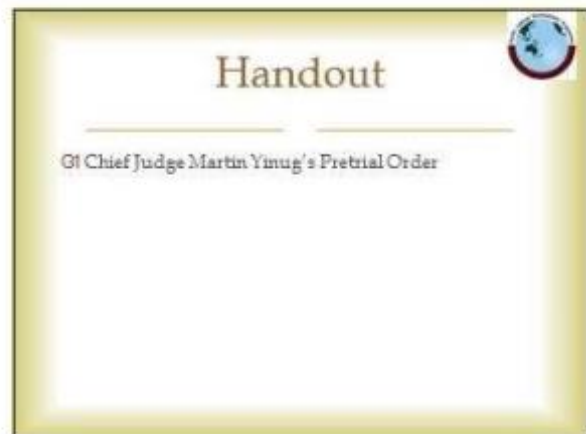
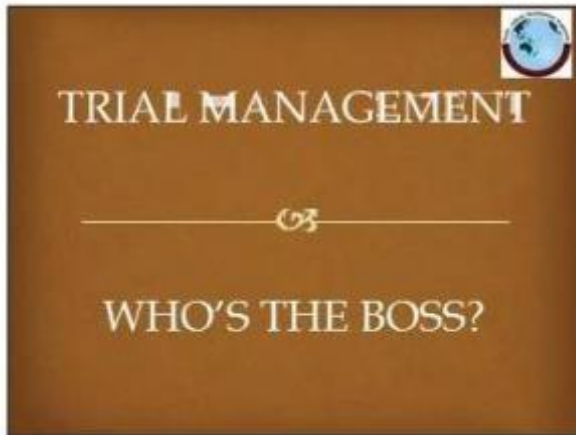


TEST

On a blank piece of paper and without the use of notes list all of the responsibilities of a Judge.

Believe in your Policies
Enforce them strictly and uniformly

SAMPLE POWERPOINT PRESENTATION 14: TRIAL MANAGEMENT



Exercise Hypotheticals

- Attorney arguing with witness or repeating same questions;
- Witness uncooperative
- Crying witness
- Disruptive Public
- Video Clips

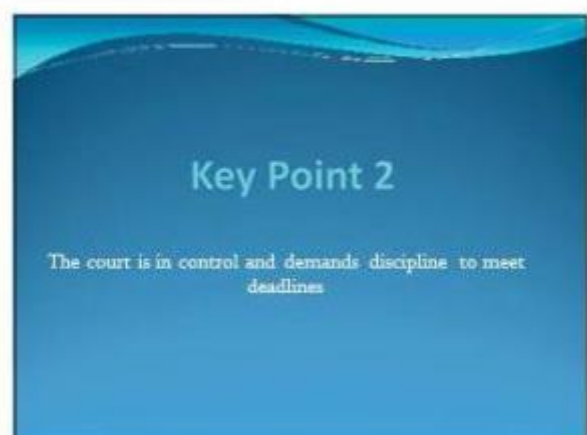
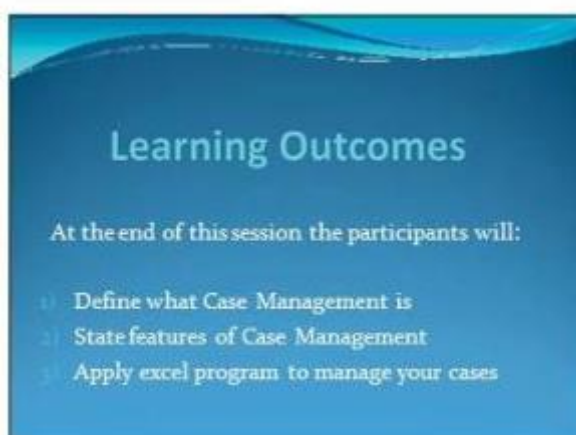
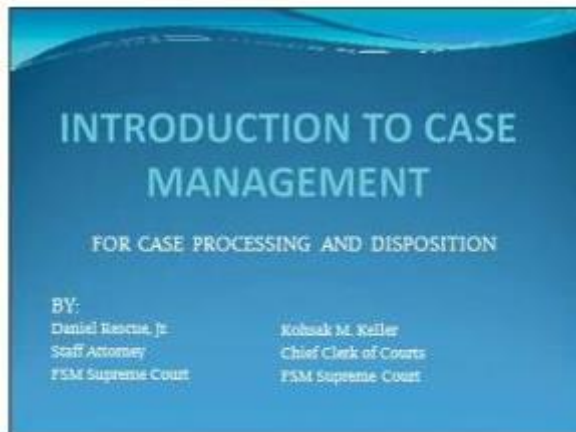
Video Clips



Video Clip



SAMPLE POWERPOINT PRESENTATION 15: INTRODUCTION TO CASE MANAGEMENT



Key Point 2-Control (2)

CASE MANAGEMENT IS ABOUT LEADERSHIP AND THE COURT BEING IN "CONTROL"

- The Schedule
- Caseflow
- Lawyers
- Resources

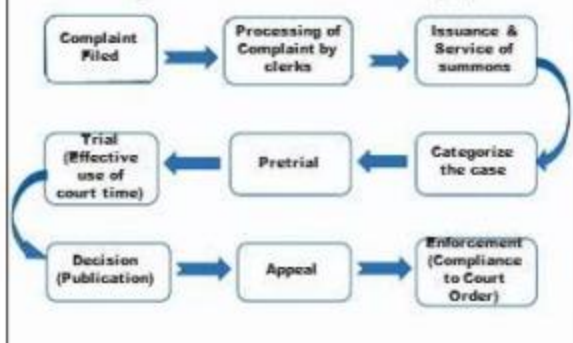
Key Point 3- Differentiation of Cases

A formal system for Differentiating Cases

- ✓ Cases involving children
- ✓ Custody Cases
- ✓ (Criminal) Land Cases
- ✓ Small Claim Cases
- ✓ Old Cases
- ✓ Complex Cases
- ✓ Matters of public importance

Cases are treated & scheduled according to needs

Key Points 2: Control (3)



Key Point 3- Differentiation of Cases

- 1. Special categories of cases might be so sensitive or of such public significance that they require special attention and a FAST TRACK e.g. crimes of violence against women, children, and some commercial cases
- 2. Fast Tracking accelerate the cases through the system to ensure a prompt resolution
- 3. Features may be: reduction of time for service of the evidence brief, setting matters for oral argument, counsel provides case summary statements, fast-tracking for early pleas, faster processing in the registry

Key Point 3-Differentiation of Cases

3. Different types of cases are identified and treated according to needs

Known as Differentiated Case Management-DCM

Key Point 4 – Preparation

4. The court demands preparation before filing and for court events

Cases must be prepared before filing

Key Point 5- Minimal Continuances

5. This is a strict continuance policy

Key Point 7- Technology

7. Technology is maximized to record and report on the caseload

Key Point 5- Minimal Continuances

Effective Continuance Practices:

- 1) Increase reliability and predictability of the entire system
- 2) Strengthens expectations that the case will proceed
- 3) Decrease the pending caseload
- 4) Communicate a presumption that continuance will more like than not, be denied
- 5) Require Good Cause
- 6) Are recorded on the file

Demonstrate use of Technology

FSM Supreme Court Spreadsheet or Excel Program.

-Input of information

-Sorting

- 1) Case Type
 - 2) Case Status
 - 3) Presiding Judge
 - 4) Assignment of Staff
 - 5) What State Generating
- Report in Word document

Key Point 6- Early identification of issues

6. The real issues for adjudication are identified early

Key Point 8-Teamwork

8. Judges, Administrators and Clerks work together intensely as a team to manage the caseload

Key Point 8 – Team Work

Roles and Effective Case Management

Assistant clerks	Senior Clerks/Attorneys	Judges
Case Information & Flow	Judicial	Adjudication
Administrative & Record Keeping	Preparation, Processing & Enforcement	Exercise of Judicial Power
<ol style="list-style-type: none"> 1. Review of new files for basic compliance 2. Registration & Case Numbering 3. Case Processing 4. Records management 5. Forms 	<ol style="list-style-type: none"> 1. Compliance screening 2. Differentiate cases 3. Time Goals & major event management 4. Allocation case to judge 5. Scheduling conferences 	<ol style="list-style-type: none"> 1. Early & continuous judicial control 2. Early identification of issues in dispute 3. Elimination of frivolous claims 4. Firm & credible trial date 5. Realistic Scheduling

REVIEW (2)

- 5- There is a strict continuance policy
- 6- The real issues for adjudication are identified early
- 7- The use of technology to manage the case load is maximized
- 8- Judges, Administrators and clerks work together as a team, to manage the caseload

Key Point 8 – Team Work (2)

Roles and Effective Case Management

Assistant clerks	Senior Clerks/Attorneys	Judges
Case Information & Flow	Judicial	Adjudication
Administrative & Record Keeping	Preparation, Processing & Enforcement	Exercise of Judicial Power
<ol style="list-style-type: none"> 6. Providing information 7. Statistics gathering & report preparation 8. Resources co-ordination e.g. personal, court rooms & audio 9. Communication 	<ol style="list-style-type: none"> 6. Post Trial & Enforcement 7. Legal research and support 8. Manage exhibits 9. Record & Communicate 10. Manage court rooms & Resources 	<ol style="list-style-type: none"> 6. Continuance management 7. Courtroom management 8. Create opportunities to settle 9. Use of performance reports 10. Resources consciousness


END OF PRESENTATION

Thank you all so very much.

REVIEW

- 1- The court supervises the pace of litigation
- 2- The court is in Control and demands discipline to meet deadlines
- 3- Different types of cases are identified and treated according to needs
- 4- The court demands preparation – before filing and for court events

SAMPLE POWERPOINT PRESENTATION 16: TIME STANDARDS




**PACIFIC JUDICIAL
DEVELOPMENT PROGRAMME**

Local Orientation Pilot Program

09-13 May, 2014
Peilapalap, Pohnpei

Samuel Bailey
Daniel Rescoe Jr.
Kohsok Keller
Kapilly Capelle

1



Outcome

- 1) To define Time Goal/Standard
- 2) To list some of the benefits
- 3) Implement a TG/S policy

4




Session 21

Time Standard

12 June, 2014
Pohnpei, FSM


2



Structure

- 1) What is Time Goal/Standard
- 2) Importance of TG
- 3) Benefits of TG
- 4) How to go about making one

3



Objectives

- 1) To introduce and explain the concept of Time Goal/Standard
- 2) Examine benefits of TG
- 3) Promote awareness of the importance of timely disposition of cases.

3



What is Time Goal/Standard?

Is a guideline (a control mechanism/tool) for Case Management System (CMS) to ensure cases are processed and disposed in a reasonable time.

4

A Reasonable Time

Each case is individual and requires an amount of time to fairly, necessarily and conveniently complete, as soon as circumstances permit.

- The first step in developing and introducing an effective case management system is to **set goals for the time it should take to process each category of case i.e. the time it takes from the filing of a case to its disposal.**
- The second step is to develop systems and processes to assist the court meet those goals.

Is it important?

- In FSM fair and speedy trial is a constitutional right of every citizen and resident.
- Efficiency of justice: providing final judgements with fairness within a reasonable time
- It is almost universal now that citizens expect, and in many places demand, their courts to deliver justice in a fair and timely manner.

Status quo

- No policies.
(Policies are in the making in the State and FSM Courts)
- Municipal?

• A court cannot hide behind procedural or other defects in its judicial processes to avoid responsibility for delays

• The fact that parties are responsible for the conduct of proceedings does not excuse judges from ensuring timely disposition of cases.

Benefits of TG policy:

- Define delay to avoid or decrease delay
- Transform the way your court thinks about case processing
- Stop cases getting "lost in the system"
- Define a consistent process and expectation
- Improve quality and efficiency
- Help courts be transparent and accountable
- Help courts meet international standards of judicial administration

How to develop Time Goal/Standards ?

- Two key performance standards:

1. Time standards/ goals for:
INTERMEDIATE/INTERVAL EVENTS AND TO FINAL DISPOSITION
2. Time goals for: **THE ENTIRE COURT CASELOAD.**

12

THE END



13

- PJDP Toolkit
- FSMSC Experience

14

"Justice delayed justice denied"

- "A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free society/people. However, couple things could destroy that confidence and do incalculable damage to society:
 - 1) that people come to believe that courts' inefficiency and delay will drain even a just judgment of its value;
 - 2) that people come to believe the law – in the larger sense – cannot fulfill its primary function to protect them and their families in their homes, at their work, and in public places."

Chief Justice of the United States [Warren E. Burger](#) noted in an address to the [American Bar Association](#) in 1970.

15

SAMPLE POWERPOINT PRESENTATION 17: EXERCISES AND CUSTOMER SERVICE


**PACIFIC JUDICIAL
DEVELOPMENT PROGRAMME**

Regional Judicial and Court Officers'
Orientation Course

2-7 December, 2012 – Port Vila, Vanuatu


Session Name: Exercises,
Customer Service

Name: John Alliee



1

Customer Service
What is in it for me



- Registry Staff – As front officer of the court, your actions, attitude and behaviour helps to shape the perspective of the court user as to what the court is about.
- Judicial Officer – a useful guide to keeping your actions, attitude and behaviour in line with your oath of office.
- What is customer service?

2

Customer Service
WHY BOTHER?



SOME NUMBERS TO THINK ABOUT

96% of dissatisfied customers don't complain

83-91% of dissatisfied customers will not return

Dissatisfied people will tell 9 to 10 others about their negative experience

Some will tell 20 or more.

3

Customer Service
Key Questions



- What is customer service generally and from the perspective of the court?
- Who are the court's customers?
- What are the customers' expectations?
- Why do the customers have those expectations?
- Having explore the above, what, then, is good or appropriate customer service expected from the courts?

4

What is Customer Service



"Customer service is a series of activities designed to enhance the level of customer satisfaction – that is, the feeling that a product or service has met the customer expectation." – wikipedia



5

Who are the customers?




6

What do the customers want? What do they dislike?



7

Customer's Needs

- Security
 - focus on guarantees and have a fear of taking risks.
- Social
 - need to be appreciated and have a fear of being ignored.
- Results
 - focus on results and have a fear of failing.

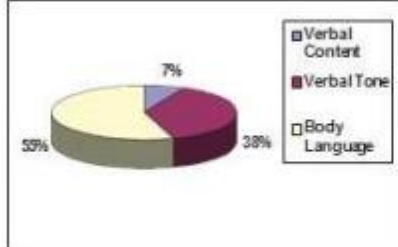
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Good/Appropriate customer service

- Activity
 - Work in pairs
 - Write down one word that you think sums up 'good/appropriate customer service'
 - Give meaning/definition to each letter of the word
 - Feedbacks

9

Components of communication



Component	Percentage
Verbal Content	59%
Verbal Tone	38%
Body Language	7%

10

Good/Appropriate customer service

• **P.E.S.P.I.T.**

- Recognize the inherent worth of all human beings
- Eliminate derogatory words and phrases from your vocabulary
- Speak with people – not at them... or about them
- Practice empathy – walk in their shoes
- Earn the respect of your co-workers through your actions
- Consider feelings of others before you speak and act
- Treat everyone with dignity and courtesy

11

Expectations of Quality

Golden Rule ...	Platinum Rule...
o Treat others as you want to be treated.	o Treat others the way they want to be treated.

12



Customer Service
Key Questions evaluated

- What is customer service?
- Who are the court's customers?
- What are the customers' expectations?
- Why do the customers have those expectations?
- Having explored the above, what, then, is good or appropriate customer service expected from the courts?

10



Pacific Judicial Development Programme

JUDGES' ORIENTATION TOOLKIT

PJDP toolkits are available on: <http://www.fedcourt.gov.au/pjdp/pjdp-toolkits>

