

1 Gregory Baka # F0199  
Acting Attorney General  
2 Braddock J. Huesman # F0367  
Assistant Attorney General  
3 OFFICE OF THE ATTORNEY GENERAL  
Hon. Juan A. Sablan Memorial Bldg., 2nd Fl.  
4 Caller Box 10007, Capital Hill  
Saipan, MP 96950-8907  
5 Telephone: (670) 664-2341  
6 Fax: (670) 664-2349

7 Attorney for Defendants Benigno R. Fitial and Eloy S. Inos.  
8  
9

10 IN THE SUPERIOR COURT  
11 FOR THE NORTHERN MARIANA ISLANDS

12 **CHRISTINA-MARIE E. SABLAN**

CIVIL ACTION NO. 09-0066(E)

13 **Plaintiff,**

14 **vs.**

15 **BENIGNO R. FITIAL, in his official**  
16 **capacity as GOVERNOR of the**  
17 **COMMONWEALTH OF THE**  
18 **NORTHERN MARIANA ISLANDS,**  
19 **and ELOY INOS, in his official capacity**  
**as SECRETARY OF FINANACE.**

**DEFENDANTS' RESPONSE TO THE**  
**COURT'S MAY 15 ORDER AND**  
**MOTION TO APPEAR**  
**TELEPHONICALLY**

20 **Defendants**  
21  
22  
23  
24  
25  
26  
27  
28



1 1 CMC § 9918(a)(8) as the district courts in Washington D.C., where the 903 Litigation is based,  
2 do not allow discovery of these types of documents because they intrude on litigation budgets.<sup>2</sup>

3 **Voucher/Payment, Supplier Payment Inquiry, and Account Ledgers (items 30-34).**

4 Account Ledgers, Voucher/Payment and Supplier Payment Inquiry documents are all  
5 similar. They are internal documents generated at the Department of Finance, and they indicate  
6 payments made to Jenner & Block. In the case of Account Ledgers, they also indicate total  
7 amounts contained in the accounts and information not responsive to Plaintiff's requests. As  
8 noted before, the federal courts in Washington D.C. are aware of the problem of using discovery  
9 to inquire into sensitive areas such as litigation budgets, and have held that "assessing one's  
10 settlement posture by knowing *what one's opponent is paying counsel is not a legitimate use of*  
11 *discovery*; discovery seeks relevant evidence, not ammunition for settlement discussions, as  
12 welcome as they may be."<sup>3</sup> As this information would not be available to the United States  
13 through the discovery process, it is not available under the Open Government Act, and thus these  
14 documents are exempt under 1 CMC § 9918(a)(8).  
15

16  
17 Defendants are aware of plaintiff's argument that the Court should give the term  
18 "relevant" in the Open Government Act the same definition as the legal term of art found in the  
19 Rules of Evidence. The long standing rule in the Commonwealth, however, is that when the  
20 Legislature fails to provide the definition in the statute, the Court will give the word its ordinary  
21 meaning.<sup>4</sup> Litigants are not free to provide their own preferred definitions to terms contained  
22  
23

---

24 <sup>2</sup> *Banks v. Office of the Senate Sergeant-at-Arms and Doorkeeper*, 222 F.R.D. 7 (D.D.C.  
25 2004).

26 <sup>3</sup> *See Banks*, 222 F.R.D. at 13 (emphasis added).

27 <sup>4</sup> *See, e.g. Estate of Faisao v. Tenorio*, 4 NMI 260 (1985); *Commonwealth Ports*  
28 *Authority v. Hakubotan Saipan, Ent., Inc.*, (N.M.I. Aug., 8, 1991); *but cf Calvo v. Northern*  
*Mariana Scholarship Bd.*, 2009 MP 2 at ¶ 28 ("Moreover the term "qualify" is not nearly as  
narrow as the Board suggests.")



