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SUPERIOR COURT
OF GUAM

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IN THE SUPERIOR COURT OF GUAM

By: 

CHRISTOPHER A. TORRES, *derivatively on
behalf of CHAMORRO EQUITIES, INC., a
Guam Corporation,*

Plaintiff,
vs.

ROBERT V. ULLOA, *in his capacity as
Director of Chamorro Equities, Inc.,*
KENNETH E. THOMPSON, *in his capacity
Director of Chamorro Equities, Inc.,*
GERALD D. HARTWICK, *in his capacity as
Vice President of Chamorro Equities, Inc.,*
and BC CONSULTING LLC, a Washington
Limited Liability Company,

Defendants.

CIVIL CASE NO. CV0574-25

**DECISION AND ORDER DENYING
PLAINTIFF'S MOTION FOR
JUDICIAL ADMISSION**

Plaintiff Christopher Torres moves the Court to treat a footnote in Defendants Robert Ulloa and BC Consulting, LLC's summary judgment brief as a binding judicial admission that all Defendants engaged in a tax evasion scheme. Because the footnote does not qualify as a judicial admission and such an admission would bind only its makers, and because Torres attempts to raise a new, unpled theory, the Court DENIES the motion.

I. PROCEDURAL BACKGROUND

Torres filed this derivative action on behalf of Chamorro Equities, Inc. (CEI) on August 28, 2025, against CEI shareholders and officers Robert Ulloa, BC Consulting, Kenneth Thompson, and Gerald Hartwick. V. Compl. & Jury Demand (Aug. 28, 2025). Torres alleged that Ulloa, Thompson, and Hartwick breached their fiduciary duties by assigning Ulloa's salary

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to his personal LLC.

Hartwick and Thompson answered on September 18, 2025 and asserted multiple affirmative defenses. Answer Hartwick & Thompson to Pl.'s V. Compl. (Sep. 18, 2025). Ulloa and BC Consulting filed their Answer days later, raising the same defenses and admitting that Ulloa has a partial ownership interest in BC Consulting. Answer Ulloa & BC Consulting to Pl.'s V. Compl. & Jury Demand ¶ 1 (Sep. 23, 2025). Ulloa and BC Consulting then moved for summary judgment on October 3, 2025, arguing, among other things, that CEI suffered no actual damages because it paid Ulloa through BC Consulting rather than directly. Mem. P. & A. Supp. Summ. J. (Oct. 3, 2025). On October 16, 2025, Torres filed a Motion for Judicial Admission based on a footnote in the Motion for Summary Judgment. Mot. Judicial Admis. (Oct. 16, 2025).

The Court heard both motions on December 12, 2025, denied summary judgment without prejudice, and took this motion under advisement. Hr'g (Dec. 12, 2025). This order resolves whether Defendants' footnote qualifies as a binding admission.

II. DISCUSSION

Judicial admissions under Guam law are formal admissions in the pleadings that have the effect of withdrawing a fact from issue and dispensing wholly with the need for proof of the fact. *Sinlao v. Sinlao*, 2005 Guam 24 ¶ 16. The statement must (1) be deliberate, clear, and unambiguous; (2) be a deliberate waiver of the right to present evidence; and (3) deal with opinions and legal conclusions but do not include a party's statement of their conception of the legal theory of a case. *Id.* at ¶ 17. Statements bind only the party that makes them. GRE 801(d)(2).

Here, the challenged footnote states, "CEI actually pays *less* in federal taxes by avoiding the employer's share of FICA as a result of the payments being made directly to BC Consulting,

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LLC.” Mem. P. & A. Supp. Summ. J. at 8, n.2 (Oct. 3, 2025). Torres reads this as an admission of a tax evasion scheme and incorrectly concluded, “Thus, under FICA, Bob [Ulloa] (and the other Defendants) caused CEI to pay a third-party LLC which allowed CEI **and Bob** [Ulloa] to avoid paying FICA taxes.” Mot. Judicial Admis. at 3 (emphasis added). However, the footnote did not say that payment to BC Consulting allowed Ulloa to avoid taxes. Rather, the footnote describes the legal effect that follows from applicable tax statutes. Under the Internal Revenue Code, which governs FICA contributions, when a business pays compensation to a contractor (including a partnership such as an LLC), the business does not withhold or pay the employer’s share of FICA taxes; instead the contractor bears responsibility for self-employment taxes. 26 U.S.C. §§ 3101–3102; 26 U.S.C. §§ 1401–1402. Applying that rule here, CEI’s payments to BC Consulting would, as a matter of law, shift the FICA burden from CEI to BC Consulting (and ultimately to Ulloa as BC Consulting’s owner). The footnote therefore explains a statutory consequence and neither claims that anyone failed to pay taxes, nor admits intent to evade taxes, nor concedes an illegal scheme.

The footnote therefore falls short of *Sinlao*’s requirements. It is not “deliberate, clear, and unambiguous” as to tax evasion, nor a “deliberate waiver[] of the right to present evidence” on intent, status, or compliance. *Sinlao*, 2005 Guam 24 ¶ 17. At most, it asserts a fact about who bears the FICA burden under the payment structure described by Ulloa and BC Consulting, leaving a factual dispute for trial. Even if it qualified as an admission, the statement is limited in its effect to Ulloa and BC Consulting, the parties who made it. *Id.* Torres cannot stretch one defendant’s footnote into a group admission binding Thompson and Hartwick, who filed separate Answers and never adopted the statement.

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Finally, Torres' motion seems to evade pleading requirements as it presents a new theory of misconduct. Guam courts do not permit new theories in summary judgment or related motions, as this prejudices defendants who litigated based on the original pleadings. *See DFS Guam L.P. v. A.B. Won Pat Int'l Airport Auth., Guam*, 2020 Guam 20 ¶ 122. The Complaint alleges improper payments for "better tax treatment" but never mentions FICA evasion, IRS penalties, or a willful scheme. V. Compl. & Jury Demand at 7. Under Guam Rule of Civil Procedure 15(a), Torres could amend once as a matter of course within 21 days after serving the Complaint or a responsive pleading, whichever is later. Further amendments require consent or leave of court. However, Torres has never amended the Complaint. Seeking a judicial admission of tax evasion now effectively amends the Complaint midstream, bypassing the amendment procedures under Rule 15.

III. CONCLUSION

Because the footnote fails to qualify as a judicial admission under *Sinlao* and presents a new theory, the Court DENIES the Motion for Judicial Admission.

SO ORDERED this 17 February 2026.



HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam


Appearing Attorneys:

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Ulloa and BC Consulting LLC

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