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SUPERIOR COURT
OF GUAM

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IN THE SUPERIOR COURT OF GUAM

ANNA B. LUJAN, Plaintiff, **vs.** **DAVID J. LUJAN,** Defendant.	**DOMESTIC CASE NO. DM0464-25** **DECISION AND ORDER DENYING DEFENDANT'S THIRD MOTION TO DISQUALIFY PLAINTIFF'S COUNSEL**
DAVID J. LUJAN, Third-Party Plaintiff, **vs.** **ANGELA B. LUJAN and DOES 1-50,** Third-Party Defendants.	

This matter came before the Honorable Dana A. Gutierrez upon Defendant-Third Party Plaintiff David J. Lujan's ("David") Third Motion to Disqualify Plaintiff's Counsel (Apr. 24, 2026) ("Third Motion"). David is represented by attorneys from the Law Offices of Phillips and Bordallo, P.C., and Plaintiff Anna B. Lujan ("Anna") is represented by attorneys from the Arriola Law Firm, LLC. After reviewing the pleadings, the Court determined that oral argument was unnecessary, and on June 11, 2026, the Court took the matter under advisement. Upon consideration of the pleadings, the record, and the applicable law, the Court hereby **DENIES** David's Third Motion.

BACKGROUND

The Court assumes the parties are familiar with the complex procedural history of the case to date and do not require an extensive recitation here. The Court focuses only on the facts necessary to understand this Decision and Order.

In December 2025, Anna filed a Verified Complaint for Divorce and Support against David. *See* V. Compl. (Dec. 31, 2025). In February 2026, David filed an Answer, which included counterclaims against Anna and third-party claims against Angela B. Lujan ("Angela").[1] *See* Answer (Feb. 4, 2026). David also filed a Motion to Disqualify Anna's Counsel for Conflict of Interest (Feb. 4, 2026) ("First Motion"), followed by a Motion to Disqualify Plaintiff's Counsel and Request for Limited Evidentiary Hearing (Feb. 26, 2026) ("Second Motion"). Both the First Motion and Second Motion sought to disqualify the Arriola Law Firm from representing Anna pursuant to Guam Rules of Professional Conduct ("GRPC") 1.7(a)(2) and GRPC 3.7.

On April 24, 2026, at 2:16 p.m., the Court issued a Decision and Order denying the First and Second Motions. *See* Dec. & Order (Apr. 24, 2026) ("April 2026 D&O"). The Court held, among other things, that (1) David did not have standing to seek disqualification under GRPC 1.7(a)(2) because he was not a current or former client of the Arriola Law Firm; (2) even if David had standing, he did not show the firm has a conflict of interest under GRPC 1.7(a)(2); and (3) David did not show that Attorney Joaquin C. Arriola, Jr. ("Attorney Arriola") was likely to be a "necessary witness" within the meaning of GRPC 3.7. *See id.*

On April 24, 2026, at 4:47 p.m.—less than three hours after the Court issued the April 2026 D&O—David filed his Third Motion. The Third Motion advances similar legal theories as the

[1] Angela is Anna's biological daughter and David's adopted daughter. Dec. & Order at 3 (Apr. 24, 2026).

First and Second Motion but applies these theories to new factual allegations. David now alleges that shortly before this case was filed, Anna secretly transferred her title to certain real properties to an entity called Anna's Ark, which is owned and controlled by Anna and Angela. *See* Third Mot. Disq. at 5–6 (Apr. 24, 2026); Decl. David J. Lujan at 1–2 (Apr. 24, 2026). David further alleges that at the "initial hearing" in this case, Attorney Arriola stated that Anna had not transferred title to any community property. Third Mot. Disq. at 6–7. Based on these allegations, David seeks the disqualification of the Arriola Law Firm under three ethical rules. First, David asserts the Arriola Law Firm must be disqualified under GRCP 1.7(a)(2) because Attorney Arriola's representation of Anna will be limited by his responsibility to a "third person" (Angela) and/or by his own personal interests. *Id.* at 5. Next, David asserts that the Arriola Law Firm must be disqualified under GRPC 3.3(a)(1) because Attorney Arriola either knowingly misrepresented Anna's transfer of properties, or else knowingly failed to correct his unintentional misrepresentation. *Id.* at 7. Finally, David asserts the Arriola Law Firm must be disqualified under GRPC 3.7(a) because Attorney Arriola is now a "necessary witness." *Id.* at 12. David also asks the Court to hold an evidentiary hearing for further factual development. *See id.* at 15-16.

Anna responds that the Third Motion is patently frivolous because it seeks to relitigate issues decided by the April 2026 D&O. *See* Opposition (May 26, 2026). Anna emphasizes that the Court already held that David does not have standing to seek disqualification under GRPC 1.7(a)(2) and has already held that Attorney Arriola is not likely to be a "necessary witness" to these proceedings. *Id.* at 2–4; *see also* Dec. & Order at 5–8, 11–13 (Apr. 24, 2026). Anna concludes that the Third Motion should be denied in its entirety, and that David should be sanctioned for filing it. Opposition at 4-5.

In his Reply, David argues the third Motion does not "repeat[] the arguments previously rejected by the Court," but instead applies similar theories to "materially different facts." Reply at 1-2 (June 5, 2026). David argues that his new allegations create the "unavoidable question[s]: who supplied the material factual representations advanced to the Court, what did Anna disclose to her counsel, and when did counsel learn that the prior representations were incomplete or inaccurate," and that these questions require the Arriola Law Firm's disqualification. *Id.* at 4-5.

DISCUSSION

1. Legal Standard

The GRPC, like the ethical rules in many other jurisdictions, are modeled on the ABA Model Rules of Professional Conduct ("MRPC"). *See Barrett-Anderson v. Camacho*, 2018 Guam 20 ¶ 17. As such, case law from jurisdictions with similar ethical rules is persuasive authority here. *See Amerault v. Intelcom Support Servs., Inc.*, 2004 Guam 23 ¶ 16 ("Guam courts have considered courts of other states interpreting statutes similar to laws of Guam to be persuasive authority."). This includes federal case law interpreting the MRPC itself.

In Guam, the current standard for attorney disqualification is "whether an attorney's continued representation of a party or participation in an action violates or significantly risks violating the Guam Rules of Professional Conduct." *Barrett-Anderson*, 2018 Guam 20 ¶ 20. With that said, "in all cases, rules of professional conduct are not to be mechanically applied." *Id.* ¶ 24; *see, e.g.*, *United States v. Philip Morris Inc.*, 312 F. Supp. 2d 27, 43 (D.D.C. 2004) (when weighing disqualification motion, "each case must be considered on its own merits and in its own particular factual context."). Attorney disqualification is "a drastic course of action," and as such it "should not be taken simply out of hypersensitivity to ethical nuances or the appearance of impropriety." *Barrett-Anderson*, 2018 Guam 20 ¶ 14 (quoting *Roush v. Seagate Tech., LLC*, 58 Cal. Rptr. 3d

275, 281 (Ct. App. 2007)); *see, e.g.*, *Philip Morris*, 312 F. Supp. 2d at 43 (courts should be hesitant to disqualify an attorney "except when absolutely necessary.") (citation omitted). Accordingly, "the party seeking disqualification must carry a 'heavy burden' and must meet a 'high standard of proof' before a lawyer is disqualified." *Alexander v. Primerica Holdings, Inc.*, 822 F. Supp. 2d 1099, 1114 (D. N.J. 1993) (citations omitted).

As the Court noted in the April 2026 D&O, "[c]ourts approach a motion to disqualify with caution because such motion is vulnerable to being used as a tactic to delay the case or harass opposing counsel." Dec. & Order at 5 (Apr. 24, 2026) (citations omitted); *see, e.g.*, *Board of Ed. Of City of New York v. Nyquist*, 590 F.2d 1241, 1246 (2d Cir. 1979) (noting "disqualification motions are often interposed for tactical reasons."). Because the instant motion is David's third attempt to disqualify the Arriola Law Firm from this case, and because the instant motion makes arguments that are broadly similar to those raised in the prior two motions, the Court believes particular caution is warranted here.

2. <u>The Court Does Not Disqualify the Arriola Law Firm Under GRPC 1.7(a)(2)</u>

First, David argues the Arriola Law Firm has a disqualifiable conflict of interest under GRPC 1.7(a)(2), which provides:

> (a) Except as provided in paragraph (b), a lawyer shall not represent a client if . . . .
>
> (2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or *a third person or by a personal interest of the lawyer.*

Guam R. Prof'l Conduct 1.7(a)(2) (emphasis added). David argues that the Arriola Law Firm's "duties and advocacy are significantly at risk of being materially limited by responsibly [sic] to a third person (Angela) and/or Counsel's own involvement in developing and presenting the contested factual narrative[.]" Third Mot. Disq. at 5 (Apr. 24, 2026).

But as explained in the April 2026 D&O, a party cannot seek disqualification under GRPC 1.7(a)(2) unless they have standing to do so. "A 'standing' requirement is implicit in disqualification motions." Dec. & Order at 5 (quoting *Fisher v. Taitague*, CVA25-001 (Order at 1 (Mar. 4, 2026)). A party lacks standing to bring a disqualification challenge unless it can "establish a personal stake in the motion to disqualify sufficient to satisfy the 'irreducible constitutional minimum' of Article III." *Colyer v. Smith*, 50 F. Supp. 2d 966, 971 (C.D. Cal. 1999) (citation omitted). Thus, when a party seeks disqualification based on an alleged conflict of interest, "[g]enerally . . . the complaining party must have or must have had an attorney-client relationship with that attorney." Dec. & Order at 5 (quoting *Fisher v. Taitague*, CVA25-001 (Order at 1)); *see, e.g.*, *In re Yarn Processing Patent Validity Litig.*, 530 F.2d 83, 88 (5th Cir. 1976) ("As a general rule, courts do not disqualify an attorney on the grounds of conflict of interest unless *the former client* moves for disqualification.") (emphasis added).

Here, it remains undisputed that David does not have, and has never had, an attorney-client relationship with the Arriola Law Firm. David also has not explained how he would have any other form of "personal stake" in prosecuting the Arriola Law Firm's alleged conflict of interest; the Third Motion does not address standing at all. Thus, the Court reaffirms its prior analysis of the issue: David lacks standing to prosecute a challenge under GRPC 1.7(a)(2), so the Arriola Law Firm is not disqualified on this basis.

3. <u>The Court Does Not Disqualify the Arriola Law Firm Under GRPC 3.3(a)(1)</u>

Next, David argues that the Arriola Law Firm must be disqualified from representing Anna under GRPC 3.3(a)(1). The rule provides, in relevant part: "[a] lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer." Guam R. Prof'l Conduct 3.3(a)(1). The Court assumes David has standing to raise this particular challenge because, if true, it would appear to "impact[] the moving party's interest in a just and lawful determination of [his] claims." *See Colyer*, 50 F.Supp.2d at 971.

David alleges that "at the initial hearing,[2] Plaintiff's counsel affirmatively represented that Plaintiff had not transferred any community property," Third Mot. Disq. at 6, but that this was in fact untrue. At the outset, the Court notes that David has not provided a transcript of that hearing, nor has he indicated the specific point in the hearing—which lasted for more than an hour and addressed a variety of issues—where Attorney Arriola made this alleged misrepresentation. The Court has reviewed the audio recording of the hearing but cannot find where this precise statement was made. But even assuming Attorney Arriola did make this representation, the Court is unpersuaded that this amounts to a violation of GPRC 3.3(a)(1).

As noted above GPRC 3.3(a)(1) applies when an attorney knowingly makes (or fails to correct) a *false* statement of fact. Attorney Arriola's purported representation that Anna had not transferred community property would only be false if Anna had in fact transferred *community* property, i.e., property owned by the marital community. In Guam, the general rule is that "property acquired during the marriage by either spouse is presumed to be community property," *Damian v. Damian*, 2015 Guam 12 ¶ 23, but that presumption can be overcome in several ways, *see* 19 GCA § 6101(a)(1)–(8). If Anna transferred only her *separate* property, Attorney Arriola's purported representation would not be false.

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[2] The Court understands the "initial hearing" in question to be the hearing on the Order to Show Cause re: Temporary Restraining Order on February 5, 2026, which was the first hearing the Court held in this case.

In support of his argument, David provides a copy of a quitclaim deed processed by the Department of Land Management ("DLM") on November 12, 2025. *See* Third Mot. Disq., Ex. C. The quitclaim deed indicates that on October 28, 2025, Anna quitclaimed her interest in eleven parcels of land to Anna's Ark Incorporated. But while the quitclaim deed appears to show a transfer of property occurred, it does not speak to the character of the property. On the other hand, both parties have executed competing Declarations on that issue. *See* Decl. David J. Lujan at 2 (Apr. 24, 2026) (describing the transferred property as "community property"); Decl. Anna B. Lujan at 3 (Feb. 5, 2026) (describing certain properties in Exhibit F as her "separate properties"); *id.* at Ex. F (listing the properties transferred by the quitclaim deed).

At this time, the record does not establish whether the transferred properties are community property. The record is silent, for example, as to when Anna acquired title to these properties, *see* 19 GCA § 6101(a)(1), or under what circumstances, *see* 19 GCA § 6101(a)(6), or whether there was any written agreement between the parties about the character of these properties, 19 GCA § 6101(a)(7). The character of these properties remains indeterminate, and it cannot be decided upon this motion. The Court cannot find that Attorney Arriola made a *false* representation about the character of the transferred properties because the Court has not yet made a finding as to the character of those properties. Moreover, GRPC 3.3(a)(1) applies only if the attorney made a *knowing* misrepresentation. Again, since the Court has not yet determined the character of those properties, at this time there is no "fact" as to whether the properties are community property. Attorney Arriola could not have made a *knowing* misrepresentation of fact when the fact in question had not yet been established. Accordingly, the Court will not disqualify the Arriola Law Firm under GRPC 3.3(a)(1) based on the community property allegation.[3]

David also suggests, in passing, that GRPC 3.3(a)(1) might be implicated by issues such as "Anna's misrepresentation to the Court regarding her wealth and ability to pay," Third Mot. Disq. at 7–8, and "counsel's role in presenting the guardianship position." *id.* at 10. However, David does not develop these arguments; at minimum, he does not explain how his evidence proves that counsel *knowingly* made any misrepresentation on these subjects. Instead, David appears to implicitly concede that his allegations do not prove counsel's knowledge, but at most raise a suspicion of knowledge. *See, e.g.*, Third Mot. Disq. at 9 ("*If*, however, Plaintiff communicated her guardianship intentions only after Defendant filed counterclaims . . . ."); *id.* at 10 (rhetorically, "Did Plaintiff tell Counsel she was trying to sell the Hawaii family home?"); Reply at 9 ("the court must determine . . . [w]hether counsel later learned that the representation was inaccurate or incomplete"). Because David has not prove any knowing false representation on these issues, the Court does not disqualify the Arriola Law Firm under GRCP 3.3(a)(1) on these bases either.

4. <u>The Court Does Not Disqualify the Arriola Law Firm Under GRPC 3.7(a)</u>

Finally, David argues the Arriola Law Firm should be disqualified under GRPC 3.7(a) because Attorney Arriola has become a "necessary witness" to this case. Third Mot. Disq. at 12. The rule provides, in relevant part: "A lawyer shall not act as advocate *at a trial* in which the lawyer is likely to be a necessary witness . . . ." Guam R. Prof'l Conduct 3.7(a) (emphasis added). David presumably has standing to seek disqualification under GRPC 3.7(a) because this issue, if

[3] To be clear, the Court's analysis here is expressly limited to determining whether Attorney Arriola should be disqualified under GRPC 3.3(a)(1) at this time. Nothing in this analysis should be understood to modify or supersede any restraining order the Court has imposed, or may impose, ordering one or both parties not to dispose of potential community property.

true, "directly affects [David's] access to evidence and the orderly conduct of the trial of this action." *Colyer*, 50 F.Supp.2d at 974.

In the April 2026 D&O, the Court declined to disqualify the Arriola Law Firm under GRPC 3.7(a) for two reasons. First, the Court explained that GRPC 3.7(a) prohibits an attorney from acting as an advocate *at trial*; it does not require an attorney's disqualification from other stages of the case. Dec. & Order at 11-12; *see, e.g.*, *Moulder v. Davis Sch. Dist.*, 2026 WL 685663, at *3 (D. Utah Mar. 11, 2026) ("[A]lthough Rule 3.7(a) generally bars a necessary witness from acting as an advocate *at trial*, it does not automatically disqualify such a witness from acting as counsel *during pre-trial proceedings*.") (emphasis added). Second, the Court found that Attorney Arriola was unlikely to be a truly *necessary* witness because his evidence, if any, could be obtained from other witnesses. *See id.* at 12-13; *see, e.g.*, *Rosen v. Protective Life Ins. Co.*, 2010 WL 2014657, at *13 (N.D. Ga. May 20, 2010) ("A lawyer is a 'necessary' witness under Rule 3.7 if his or her testimony is material and *unobtainable elsewhere*.") (emphasis added). David does not appear to challenge the legal underpinnings of these conclusions; he merely argues the Third Motion "arises from materially different facts." Reply at 2. The Court therefore applies the same analytical approach to the new allegations.

First, the Court maintains that GRPC 3.7(a) "does not prevent an attorney from participating in other activities in the case, nor does it result in a disqualification of the attorney." Dec. & Order at 11-12 (collecting cases); *see, e.g.*, *Fine Housing, Inc. v. Sloan*, 848 S.E.2d 581, 588 (S.C. Ct. App. 2020) ("A lawyer who anticipates testifying as a witness on a contested issue at a trial may represent a party in discovery and other pre-trial proceedings.") (quoting ABA Comm'n on Ethics & Prof'l Responsibility, Informal Op. 1529 (1989)). This case remains in a pre-trial posture. Thus, even assuming *arguendo* that Attorney Arriola might become a trial witness, his disqualification would not be warranted at this time.

Next, still assuming *arguendo* that Attorney Arriola might be disqualified from trial, it does not follow that his personal disqualification would be imputed to the whole Arriola Law Firm. GRCP 3.7(b) provides that "[a] lawyer *may* act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9." (emphasis added). In other words, GRPC 3.7 generally "*permits* an attorney to act as an advocate *at trial* where a fellow partner is likely to be a witness[.]" *MJK Family LLC v. Corporate Eagle Management Servies, Inc.*, 676 F. Supp. 2d 584, 600 (E.D. Mich. 2009) (emphasis in original); *see Iguana, LLC v. Lanham*, 628 F.Supp.2d 1361, 1374 (M.D. Ga. 2008) ("Rule 3.7(b) does not recognize imputed disqualification."). Thus, Attorney Arriola's potential disqualification under GRPC 3.7(a) would not disqualify the Arriola Law Firm from representing Anna at trial, nor from representing her at pre-trial proceedings.

Finally, the Court remains unpersuaded that Attorney Arriola is likely to be a "necessary witness" at trial. The Court maintains that a "[a] lawyer is a 'necessary' witness under Rule 3.7" only if his or her testimony is material and *unobtainable elsewhere*." Dec. & Order at 12 (emphasis added); *see, e.g.*, *Rosen*, 2010 WL 2014657, at *13; *Edelstein v. Stephens*, 2018 WL 4854593, at *6 (S.D. Ohio Oct. 5, 2018); *Brown v. Thornell*, 2024 WL 6841312, at *50 (D. Ariz. June 27, 2024)). While David identifies several issues to which Attorney Arriola's testimony might be material, *see* Third Motion at 12, he does not adequately explain why Attorney Arriola's testimony is *unobtainable elsewhere*. Each of the issues David wants Attorney Arriola to testify to—such as "[c]ommunications with Plaintiff"[4] and Angela's "representations and requests of the Arriola firm"—appear to be within the knowledge and control of Anna and/or Angela.[5] Thus, it appears David could obtain the evidence he seeks from other sources, which means Attorney Arriola is unlikely to be a "necessary witness." *See In re Duke Investments, Ltd.*, 454 B.R. 414, 422-23 (Bankr. S.D. Tex. 2011) ("When an attorney's testimony is merely cumulative or capable of being corroborated by other witnesses, the attorney is not 'likely to be a necessary witness' under Model Rule 3.7(a)."); *AAMCO Transmissions, Inc. v. Baker*, 2008 WL 5272781, at *2 (E.D. Pa. Dec. 18, 2008) ("the term 'necessary' means no other witness could testify.").

At this time, the Court does not disqualify Attorney Arriola, or the Arriola Law Firm as a whole, from trial or any other proceedings under GRPC 3.7(a).

5. <u>The Court Does Not Impose Sanctions on David Here</u>

Anna asks the Court to impose sanctions on David as a consequence for filing a frivolous motion. Opposition at 5. However, Anna has not made a formal motion for sanctions or argued for a specific sanction to be imposed under a specific procedure. Although the Court agrees that some aspects of the Third Motion border on frivolousness in light of the April 2026 D&O, the Court will not impose sanctions on David at this time.

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[4] The Court notes the obvious attorney-client privilege issue inherent to the premise that Attorney Arriola must testify about his "communications with Plaintiff," i.e., his client. The Court does not decide the issue here, because neither party has raised it, but the Court is skeptical that Attorney Arriola could be deemed a "necessary witness" for testimony he may not be able to ethically give.

[5] David appears to argue that Angela's testimony is unobtainable because Angela "may attempt to assert 'the 5th' if/when asked any questions about her involvement with the Arriola Firm." Third Mot. Disq. at 2. However, this argument is facially speculative; Angela has not yet asserted any such privilege before the Court. Speculation about the result of hypothetical future testimony is "plainly insufficient to serve as a basis for disqualification" under GPRC 3.7(a). *Smaland Beach Ass'n, Inc. v. Genova*, 959 N.E.2d 955, 964 (Mass. 2012) (citation omitted).

CONCLUSION

For the foregoing reasons, David's Third Motion is **DENIED** and Anna's request for sanctions is also **DENIED**.

SO ORDERED this 14th day of September, 2026.

HONORABLE DANA A. GUTIERREZ
Judge, Superior Court of Guam