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

**COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS
SENATE,**

Plaintiff,

vs.

**ANTHONY I. MACARANAS, in his
purported capacity as Commissioner of
the Department of Public Safety;
and
DAVID M. APATANG, in his official
capacity as Governor of the
Commonwealth of the Northern
Mariana Islands,,**

Defendants.

CIVIL CASE NO. 26-_____

**PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION WITH
MEMORANDUM OF POINTS AND
AUTHORITIES**

The Senate of the Commonwealth of the Northern Mariana Islands (“the Senate”), by and through its President, Karl R. King-Nabors, respectfully moves this Court, pursuant to Com. R. Civ. P. 65(a) and (b), for a temporary restraining order and an order to show cause why a preliminary injunction should not issue, restraining Defendant Anthony Macaranas from exercising the powers and duties of Commissioner of the Department of Public Safety (“DPS”), and restraining Defendant David M. Apatang, Governor of the Commonwealth of the Northern Mariana Islands, and the Office of the Governor from permitting or directing him to do so or otherwise treating him as the lawful holder of that office, or from taking other actions to circumvent the constitutionally required advice and consent of the Senate, pending final resolution of this action.

As set forth in the Verified Complaint, Mr. Macaranas was removed from the office of DPS Commissioner by Acting Governor Mendiola on February 23, 2026, was reinstated by Governor

Apatang on March 6, 2026 without the advice and consent of the Senate, was disqualified by operation of law from holding that office on or about April 4, 2026, was removed again from that office by Acting Governor King-Nabors on September 11, 2026, and was again reinstated by Governor Apatang on September 14, 2026, by a letter purporting to nullify that removal and to withdraw the pending nomination of Aniceto T. Ogumoro, with the result that Mr. Macaranas again purports to hold and exercise the powers of Commissioner as of the filing of this Motion. This Motion is supported by the accompanying Verified Complaint, the Memorandum of Points and Authorities below, and the exhibits referenced herein.

CERTIFICATION REGARDING NOTICE (Com. R. Civ. P. 65(b)(1)(B))

Counsel for the Senate certifies that notice of this Motion and copies of the Verified Complaint and supporting papers are being provided concurrently to the Office of the Attorney General, the Office of the Governor, and Mr. Macaranas. Both offices and Mr. Macaranas have actual, longstanding notice of the legal dispute underlying this action through direct written correspondence between the Senate President and the Governor from May 2026 to September 2026 as described in the Verified Complaint. Because the underlying dispute has been the subject of extensive public and interbranch communication since May 2026, the Senate does not seek relief without any opportunity for Defendants to be heard. Rather, the Senate requests that the Court set the earliest practicable hearing on this Motion on an expedited or shortened-time basis. Given the ongoing and irreparable nature of the harm described below, the Senate further requests that the Court consider interim relief effective upon filing or upon the expedited hearing, pending the Court's ruling.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On April 4, 2026, pursuant to 1 CMC § 2902, Anthony Macaranas was automatically terminated and permanently disqualified from being renominated as Commissioner of Public Safety, after the Governor failed to submit his reinstatement appointment on March 5, 2026 to the Senate within 30

1 days. The same termination and permanent disqualification also automatically activated under 1 CMC
2 § 2904 for lack of Senate approval within 90 days. Nevertheless, Mr. Macaranas continued to serve as
3 Commissioner of Public Safety until September 11, 2026 when he was terminated by Acting Governor
4 King-Nabors. Upon his return to the CNMI, Governor Apatang issued a letter on September 14, 2026
5 to nullify outright the termination and assert that Article III, Section 8(a) does not permit an Acting
6 Governor to affect the Governor's "policy agenda," notwithstanding that Section 8(a) confers the full
7 powers of the Governor's office without qualification on the Acting Governor. Governor Apatang acted
8 unilaterally, effective immediately, without seeking the Senate's agreement or court guidance.

9 Absent an injunction, Mr. Macaranas will continue to exercise the powers of Commissioner,
10 including law-enforcement authority, personnel decisions, and other official action, without lawful title
11 to do so, and Governor Apatang has given no indication he will stop directing him to do the same.
12 Governor Apatang in a July 24, 2026 letter expressly declined the Senate's invitation to resolve this
13 dispute by joining a petition for certified question to the NMI Supreme Court. The Senate accordingly
14 seeks a temporary restraining order and preliminary injunction now to restore the NMI Constitution
15 and Laws: no one may exercise the powers of Commissioner without having been submitted to, and
16 confirmed by, the Senate confirmation process.

17 **II. LEGAL STANDARD**

18 A party seeking a temporary restraining order or preliminary injunction must ordinarily show
19 (1) a likelihood of success on the merits; (2) that it will suffer irreparable harm in the absence of relief;
20 (3) that the balance of hardships favors the requested relief; and (4) that the relief is consistent with the
21 public interest. Com. R. Civ. P. 65 governs the procedure for such relief in this Court. Under Rule 65(b),
22 a temporary restraining order may issue where specific facts clearly show that immediate and
23 irreparable injury will result before the adverse party can be heard, and any order issued without notice
24 expires within 10 days unless extended for good cause or by consent. Under Rule 65(c), no security is

1 required of “the Commonwealth, its officers, its agencies, and instrumentalities,” a category that
2 includes the Senate as an institutional plaintiff.

3 **III. ARGUMENT**

4 ***A. The Senate Is Likely to Succeed on the Merits***

5 1 CMC § 2902 provides that an appointment to a position requiring the Senate's advice and
6 consent, including an appointment “in an acting capacity,” automatically terminates if not submitted to
7 the Senate within thirty days after the appointee assumes the position following a vacancy, that the
8 position then becomes vacant, and that the individual “shall not be reappointed for the same position.”
9 Mr. Macaranas's tenure as Commissioner was terminated on February 23, 2026. Mr. Ogumoro served
10 as Acting DPS Commissioner from February 23, 2026. Governor Apatang returned on or about
11 February 27, 2026, and reinstated Mr. Macaranas six days later, after Mr. Ogumoro had been Acting
12 Commissioner for ten days, on March 5, 2026.

13 **1. Reinstatement After A Vacancy Triggered 1 §§ CMC 2902 and 2904**

14 The reinstatement of Mr. Macaranas was, at a minimum, an assumption of the duties of
15 Commissioner following the exact circumstance that 1 CMC § 2902 addresses. No submission to the
16 Senate followed within the next thirty days or thereafter. The statutory consequence is automatic and
17 does not depend on any further action by the Senate or the courts. The appointment terminated, the
18 office became vacant, and Mr. Macaranas became permanently ineligible for reappointment to that
19 same position.

20 The Executive’s repeated actions cannot be reconciled with the statutory text or the NMI
21 Supreme Court’s settled rules of construction. 1 CMC § 2902 applies not merely when a person is
22 formally “appointed,” but when a person “assumes the duties” of an advice-and-consent position
23 following a vacancy. Those words must be given independent effect. *Guerrero v. Northern Mariana*
24 *Islands Retirement Fund*, 2011 MP 3. Nor may the statute be construed in isolation or in a manner that
25 defeats the Legislature’s evident design. *Commonwealth Ports Authority v. Hakubotan Saipan*

1 *Enterprises, Inc.*, 2 NMI 212, 224 (1991); *Aurelio v. Camacho*, 2012 MP 21 ¶15. Once Acting Governor
2 Mendiola lawfully removed Macaranas, and Ogumoro assumed the vacant office, Macaranas's
3 subsequent return to and assumption of the duties of Commissioner triggered 1 CMC § 2902 regardless
4 of whether the Executive styled that return an "appointment," "reappointment," or "reinstatement."
5 Holding otherwise would render "assumes the duties" superfluous and recreate through nomenclature
6 the very means of circumventing Senate advice and consent that the Legislature amended 1 CMC §§
7 2902 and 2904 to prevent.

8 This reading is reinforced by the September 5, 2013 amendment to 1 CMC § 2902 in Public
9 Law No. 18-17, which cited for support the Superior Court's decision in *Demapan v. Kara.*, 2000 N.
10 Mar. I. Trial Order LEXIS 32, noting that an acting appointment to an advice-and-consent position
11 cannot be extended indefinitely and must, within a reasonable time, result in the appointee being either
12 confirmed or rejected by the Senate. Furthermore, the NMI Supreme Court has found the statute
13 sufficient to authorize an ouster from office. In *People of the CNMI ex rel. Acting Att'y Gen. Clyde*
14 *Lemons, Jr. v. Atalig*, Civil Case No. 03-0396B (NMI Super. Ct. 2003), the court declined to treat a
15 general employment-disqualification statute, 1 CMC § 7851. Exclusion from Government Service, as
16 authorizing removal from public office because that statute never used the words "office," "forfeiture,"
17 or "expulsion." 1 CMC § 2902 is different in kind: it expressly speaks of the "position," provides that
18 the appointment "automatically terminates," that the position "becomes vacant," and that the person
19 "shall not be reappointed for the same position." Even a strict application of *Atalig* would recognize
20 this explicit statutory text as sufficient to authorize removal from public office.

21 **2. An Acting Governor Has the Full Authority of the Governor**

22 Governor Apatang's September 14, 2026 attempt to erase Acting Governor King-Nabors's
23 removal of Mr. Macaranas independently fails, and provides a second, freestanding basis on which the
24 Senate is likely to succeed. NMI Const. art. III, § 8(a) provides, without qualification or exception, that
25 when the Governor is physically absent from the Commonwealth and the Lieutenant Governor is also

absent or unavailable, “the presiding officer of the senate shall be acting governor.” The provision draws no distinction between “administrative continuity” and “policy agenda” matters, and it does not cast the Acting Governor in some diminished or caretaker role; while serving, the Acting Governor holds the full powers of the office, including the power under NMI Const. art. III, § 14 to remove the heads of executive departments. Governor Apatang's September 14, 2026 letter identifies no constitutional, statutory, or common law authority for the proposition that a returning Governor may unilaterally undo an official act validly taken by an Acting Governor. If a Governor could simply erase, as if it never happened, whatever an Acting Governor did while filling in, Article III, Section 8(a) would provide no continuity of government at all during an absence; it would instead hold the government's business in limbo, pending the returning Governor's unilateral discretion. Accordingly, the language of Article III, Section 8(a) sets no limitation or qualifier on the Acting Governor to exercise the full authority of the Governor.

The letter also does not address Mr. Macaranas's independent disqualification from reappointment under 1 CMC § 2902 and 1 CMC § 2904, by automatic operation on April 4, 2026 and June 3, 2026, respectively. Even if the September 11, 2026 termination was illegitimate or did not happen, Mr. Macaranas was already disqualified from holding the office under the automatic operation of two statutes. For over five months and counting, Mr. Macaranas as continued to exercise the powers and duties of DPS Commissioner without legal authority.

3. The Senate Has Standing as an Institutional Plaintiff Suffering Injury, Under Quo Warranto, and Under 7 CMC § 2421

a. Institutional Plaintiff Suffering Injury

The Senate's standing to bring this action is likewise well supported. As an institutional plaintiff, the Senate sues to vindicate its own constitutional advice-and-consent authority under NMI Const. art. III, § 14. This is a direct and particularized institutional injury distinct from any interest asserted by a member of the public. This Court has already shown itself willing to entertain such interbranch

1 constitutional disputes. *See Office of the Governor v. House JGO Comm.*, (CNMI Super. Ct., filed Dec.
2 14, 2021) (declaratory and injunctive relief sought in an interbranch dispute over separation-of-powers
3 and testimonial-immunity questions).

4 b. Quo Warranto

5 To the extent quo warranto principles inform the Senate's standing to test Mr. Macaranas's
6 authority directly, that standing is more clearly established than in the ordinary private-citizen case. In
7 *Mafnas v. Commonwealth of the N. Mariana Islands*, 2 N. Mar. I. 248 (1991), the Commonwealth
8 Supreme Court recognized that a private citizen may maintain an action in the nature of quo warranto,
9 particularly where the citizen has first requested assistance from the Attorney General and the Attorney
10 General has declined to act. Here, the Senate repeatedly asked the Governor, and by extension the
11 Attorney General, in writing, over more than two months, to identify any legal basis for their position,
12 and ultimately proposed a joint certified question to the Commonwealth Supreme Court. The Governor
13 declined in writing on July 24, 2026, citing time management concerns rather than any substantive legal
14 disagreement.

15 c. 7 CMC § 2421

16 Finally, the Senate's claim for declaratory relief rests on undisputed jurisdictional footing. Com.
17 R. Civ. P. 57 confirms that this Court's declaratory judgment procedure is available “under 7 CMC §
18 2421,” and the *Mafnas* court likewise recognized 7 CMC § 2421 as an independent basis for declaratory
19 and supplemental injunctive relief. That statute stands wholly apart from any question about the scope
20 of quo warranto standing.

21 ***B. The Senate and the Public Will Suffer Irreparable Harm Absent Relief***

22 Each day Mr. Macaranas continues to exercise the powers of Commissioner without lawful
23 authority, he executes law-enforcement decisions, personnel actions, contracts, and directives whose
24 validity is subject to legal challenge, creating exactly the kind of ongoing uncertainty that the Senate's
25 own correspondence warned would result: uncertainty for “Cabinet members, public officers,

1 employees, contractors, agencies, and the public.” That harm compounds daily and cannot be undone
2 after the fact by a later judgment. The Senate's constitutional advice-and-consent authority is
3 diminished for as long as the Executive Branch is permitted to treat that authority as optional, in
4 violation of the NMI Constitution. The public interest in lawful DPS leadership is heightened by the
5 Department's responsibilities in the ongoing recovery from Super Typhoons Sinlaku and Bavi, and by
6 the unresolved, pending complaint filed with the Civil Service Commission on March 2, 2026. That
7 pending complaint alleges a pattern of serious workplace misconduct by Mr. Macaranas and
8 underscores the public's interest in the Department being led by an officer whose authority is beyond
9 legal dispute, regardless of the eventual adjudication of the allegations.

10 ***C. The Balance of Hardships Favors the Senate***

11 Mr. Macaranas has no cognizable interest in continuing to occupy an office to which the Senate
12 finds, by operation of statute, he is no longer lawfully entitled. Any hardship to him from being
13 restrained from exercising the powers of Commissioner pending a prompt hearing is modest and does
14 not outweigh the ongoing institutional and public harm of permitting the status quo to continue. Nor
15 does the requested relief leave the Department without leadership: the Governor remains free at any
16 time to submit a nominee, such as Mr. Ogumoro, or another candidate, to the Senate for advice and
17 consent, restoring lawful leadership to the Department without delay.

18 ***D. The Requested Relief Serves the Public Interest***

19 The public interest favors clarity as to who lawfully leads the Commonwealth's principal law-
20 enforcement agency, and favors enforcement of the constitutional and statutory checks the Legislature
21 has placed on executive appointments. Granting the requested relief vindicates the separation of powers
22 rather than intruding upon it: unlike a court asked to police the Legislature's own internal discipline of
23 its members, *see Atalig, supra*, this Court is here asked only to enforce a cross-branch check. The
24 Executive Branch has never identified a legal basis for bypassing, and has not explicitly disputed, the
25 Senate's advice-and-consent role under NMI Const. art. III, § 14, though its actions do exactly that.

1 **IV. NO SECURITY SHOULD BE REQUIRED**

2 Under Com. R. Civ. P. 65(c), security is not required of “the Commonwealth, its officers, its
3 agencies, and instrumentalities.” The Senate, an institutional plaintiff and constitutional instrumentality
4 of the Commonwealth government suing in vindication of its own constitutional authority, falls within
5 that exception, and the Senate respectfully requests that the Court waive the security requirement
6 accordingly.

7 **V. CONCLUSION**

8 For the foregoing reasons, the Senate respectfully requests that the Court enter a temporary
9 restraining order in the form submitted herewith, set an expedited hearing on an order to show cause
10 why a preliminary injunction should not issue, and grant such other relief as the Court deems just and
11 proper.

12
13 DATED: September 18, 2026

14
15 RESPECTFULLY SUBMITTED

16
17 CNMI Senate
18 Karl R. King-Nabors, Senate President

19
20 By: /s/
21 David Karch (T0173)
22 Senate Legal Counsel
23

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DAVID M. APATANG, in his official
capacity as Governor of the
Commonwealth of the Northern
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Defendants.

CIVIL CASE NO. 26-_____

**VERIFIED COMPLAINT FOR
DECLARATORY JUDGMENT,
RELIEF IN THE NATURE OF
QUO WARRANTO, AND
INJUNCTIVE RELIEF**

The Senate of the Commonwealth of the Northern Mariana Islands (“the Senate”), by and through its President, Karl R. King-Nabors, brings this Verified Complaint against Defendants Anthony Macaranas and David M. Apatang, and alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for a declaratory judgment that Defendant Anthony Macaranas was disqualified by operation of law from holding the office of Commissioner of the Department of Public Safety (“DPS”) of the Commonwealth of the Northern Mariana Islands on or about April 4, 2026, and that Governor David M. Apatang's September 14, 2026 attempt to nullify Acting Governor Karl R. King-Nabors's September 11, 2026 removal of Mr. Macaranas is void and

without legal effect; for relief in the nature of quo warranto testing the authority by which Mr. Macaranas purports to continue exercising the powers of that office; and for a temporary restraining order and preliminary and permanent injunctive relief restraining Mr. Macaranas from continuing to exercise the powers and duties of the Commissioner of Public Safety, and restraining Governor Apatang and the Office of the Governor from continuing to permit or direct Mr. Macaranas to do so or otherwise treating him as the lawful holder of that office, or from continuing to take other actions to circumvent the constitutionally required advice and consent of the Senate.

2. More than 30 days have passed since Governor Apatang's March 5, 2026 memorandum GOV 2026-124 rescinding Acting Governor Dennis C. Mendiola's February 23, 2026 termination memorandum LTGOV 2026-027 and purporting to reinstate Mr. Macaranas as DPS Commissioner. Aniceto T. Ogumoro served as Acting Commissioner from February 23, 2026 to February 26, 2026 under Acting Governor Mendiola, and upon Governor Apatang's return to the CNMI, continued to serve under Governor Apatang from February 27 to March 5, 2026, when Mr. Macaranas was reinstated. The reinstated appointment was never submitted to the Senate for its advice and consent, as required by NMI Const. art. III, § 14 and 1 CMC §§ 2902 and 2904. Under the plain terms of 1 CMC § 2902, an appointment not submitted within 30 days of the appointee's assumption of an advice-and-consent position, even in an acting capacity, "shall automatically terminate, the position shall become vacant, and the person shall not be reappointed for the same position." That 30-day period expired on or about April 4, 2026, permanently disqualifying Mr. Macaranas from reappointment to the position of Commissioner. 1 CMC § 2904 similarly would disqualify Mr. Macaranas from the position 90 days after reappointment, on or about June 3, 2026.
3. The Senate brings this action only after more than five months of documented, good-faith efforts to resolve this dispute without resort to litigation, including a series of written communications between the Senate and Governor Apatang between May 21, 2026 and July 20, 2026, including a proposal from the Senate (Sen. Comm. No. 24-251) that the Governor join in submitting the controlling legal questions to the Commonwealth Supreme Court as a certified question under

1 NMI Const. art. IV, § 11, which was formally declined by the Governor’s Office (GOV 2026-
2 464). The Governor has still failed to identify any legal authority supporting the position that
3 Mr. Macaranas’s continued or renewed occupation of the office did not require submission to
4 the Senate under 1 CMC § 2902 or approval of the Senate under 1 CMC § 2904.

- 5 4. The dispute has since escalated further. On September 10, 2026, with both Governor Apatang
6 and Lieutenant Governor Mendiola physically absent from the Commonwealth, Senate
7 President King-Nabors assumed the powers and duties of Acting Governor pursuant to NMI
8 Const. art. III, § 8(a). On September 11, 2026, Acting Governor King-Nabors removed Mr.
9 Macaranas from the position of Commissioner (GOV 2026-581) and submitted the nomination
10 of Aniceto T. Ogomoro as Commissioner to the Senate for its advice and consent (GOV 2026-
11 582 and GOV 2026-583). On September 14, 2026, upon his return, Governor Apatang, in a
12 letter to the Senate (GOV 2026-588), withdrew the Ogomoro nomination and purported to
13 rescind Acting Governor King-Nabors's September 11, 2026 “attempted” removal of Mr.
14 Macaranas, on the theory that NMI Const. art. III, § 8(a) was not intended to permit an Acting
15 Governor to alter the “policy agenda” of the Governor. The letter identifies no constitutional or
16 statutory support for the proposition that a returning Governor may unilaterally nullify an
17 official act validly taken by an Acting Governor. Nor does it address Mr. Macaranas's
18 independent and preexisting disqualification from reappointment under 1 CMC §§ 2902 and
19 2904. In a memorandum to DPS (GOV 2026-590), Governor Apatang rescinded the termination
20 notice, but under a different theory, asserting that because Mr. Macaranas was out on sick leave
21 on the date of the termination notice, he was never served. By virtue of both letters, Mr.
22 Macaranas again purports to hold and exercise the powers of Commissioner of the Department
23 of Public Safety as of the filing of this Complaint.

24 II. JURISDICTION AND VENUE

- 25 5. This Court has original jurisdiction over all civil actions in equity and at law pursuant to CNMI
26 CONST. Art. IV, § 2 and 1 CMC § 3202.

6. This Court has the authority to enter a declaratory judgment and render the requested declaratory relief pursuant to Com. R. Civ. P. 57 and 7 CMC § 2421, which states:

In a case of actual controversy within its jurisdiction, the Commonwealth Trial Court, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking the declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by the judgment.

7. This Court has jurisdiction to grant relief in the nature of quo warranto pursuant to 1 CMC § 3202, which empowers the Superior Court to issue “all other writs and orders necessary and appropriate to the full exercise of its jurisdiction.” *See Mafnas v. Commonwealth of the N. Mariana Islands*, 2 N. Mar. I. 248 (1991) (recognizing that the Superior Court’s authority to entertain an action in the nature of quo warranto derives from this general grant of authority, and that a private plaintiff may maintain such an action, particularly where the Attorney General has been asked to act and has declined); cf. *People of the CNMI ex rel. Acting Att’y Gen. Clyde Lemons, Jr. v. Atalig*, 03-0396-CV (CNMI Super. Ct. 2003) (confirming that an Acting or Deputy Attorney General may bring an action in the nature of quo warranto on behalf of the government).

8. This Court has jurisdiction to grant temporary, preliminary, and permanent injunctive relief pursuant to Com. R. Civ. P. 65.

9. Venue is proper because all parties reside in the Commonwealth. Venue on Saipan is proper because the events giving rise to this action occurred, and the office at issue is exercised, on Saipan, Commonwealth of the Northern Mariana Islands.

III. PARTIES

10. Plaintiff the Senate is the upper house of the Twenty-Fourth Northern Marianas Commonwealth Legislature, vested under NMI Const. art. III, § 14 with the constitutional duty to provide advice and consent to the Governor’s appointment of the heads of executive departments, including the Commissioner of the Department of Public Safety. The Senate brings this action by and

1 through its presiding officer, Senate President Karl R. King-Nabors, who is authorized to direct
2 and employ counsel to protect the Senate's interests in this lawsuit, to which the Senate is a
3 party, pursuant to Interim Rule 2, Section 2(i) of the Senate Rules of Procedure, Twenty-Fourth
4 Northern Marianas Commonwealth Legislature (adopted Jan. 13, 2025). See also *id.* Rule 2,
5 Section 9(f) (duty of the Office of the Senate Legal Counsel to represent the Senate in lawsuits
6 to which the Senate is a party, as directed by the President).

7 11. Senate President Karl R. King-Nabors is the duly elected President of the Senate and brings this
8 action in that capacity on the Senate's behalf.

9 12. Defendant Anthony Macaranas is, or purports to be, the Commissioner of the Department of
10 Public Safety of the Commonwealth of the Northern Mariana Islands. He is named as a
11 defendant in his purported official capacity, insofar as he continues to exercise the powers of
12 that office.

13 13. Defendant David M. Apatang is the Governor of the Commonwealth of the Northern Mariana
14 Islands. He is named as a defendant in his official capacity, to the extent necessary to bind the
15 Executive Branch and give full effect to the requested declaratory and injunctive relief.

16 IV. FACTUAL BACKGROUND

17 A. The Constitutional and Statutory Framework

18 14. Under the NMI Constitution, each principal department "shall be under the supervision of the
19 governor," that "[t]he governor shall appoint the heads of executive departments with the advice
20 and consent of the senate," and that "[t]he governor may remove the heads of executive
21 departments." NMI Const. art. III, § 14. Department heads "serve at the pleasure of the
22 Governor and may be removed by the Governor with or without cause." 1 CMC § 2901.

23 15. The Department of Public Safety is headed by a Commissioner 1 CMC § 2501 appointed by
24 the Governor with the advice and consent of the Senate 1 CMC § 2502.

25 16. Appointment or reappointment following a vacancy requires the Senate's advice and consent,
26 both under Section 14 and, as to the specific timing at issue in this action, under 1 CMC §§
27 2902 and 2904.

1 17. 1 CMC § 2902 governs the timing of submissions for advice and consent. It provides, in relevant
2 part:

3 The Governor shall submit the name of a person appointed to a position requiring
4 the advice and consent of the Senate ... to the presiding officer of the Senate within
5 30 days after the person is appointed to or assumes the duties of the position, even
6 in an acting capacity, due to the position becoming vacant for any reason. ... If the
7 Governor fails to submit the name of the appointee within the 30-day period ... the
8 appointment automatically terminates, the position becomes vacant, and the person
9 shall not be reappointed for the same position.

10 18. This Court has previously recognized the constitutional significance of the 30-day submission
11 requirement, observing that an acting appointment to a position requiring the Senate's advice
12 and consent "must be for a reasonable time period, and during this period, the appointee must
13 either be confirmed or rejected by the Senate," so that the Executive Branch cannot indefinitely
14 occupy an advice-and-consent position without submitting the appointee to the Senate. *See*
15 *Demapan v. Kara*, 99-0548-CV (NMI Super. Ct. 2000)

16 19. 1 CMC § 2904 contains a similar mechanism, automatically terminating the appointment and
17 barring the person from renomination. In relevant part:

18
19 If the appointment is not confirmed by the Senate, or House, or by a majority of
20 members from the senatorial district within 90 consecutive calendar days from the
21 date the person was appointed, the appointment is deemed rejected and shall
22 automatically terminate, the position shall become vacant, and the person
23 nominated shall not be renominated.
24

25 20. NMI Const. art. III, § 14 and 1 CMC § 3202 empower the Superior Court to issue all writs and
26 orders to effectuate the full exercise of its jurisdiction, which the Commonwealth courts have
27 recognized as the basis for an action in the nature of quo warranto, testing by what authority a
28 person holds public office.¹

29 **B. The February 23, 2026 Termination and the March 2, 2026 Complaint**

30 21. On February 13, 2026, Governor Apatang issued a memorandum advising that he would be out
31 of the Commonwealth on Official Business from February 15, 2026 to February 27, 2026,
32 during which time Lt. Governor Mendiola would serve as Acting Governor (GOV 2026-103).

¹ The Commonwealth has no dedicated quo warranto statute or procedural rule; the Commonwealth Rules of Civil Procedure address only the abolition of the writs of scire facias and mandamus, Com. R. Civ. P. 81(b).

22. From February 15, 2026 to February 27, 2026, on information and belief, Governor Apatang was physically absent from the Commonwealth on Official Business.

23. On February 23, 2026, Acting Governor Mendiola, citing 1 CMC § 2901(f), issued a memorandum terminating the appointment of DPS Commissioner Macaranas, effective immediately (LTGOV 2026-027).

24. On or about February 27, 2026, Governor Apatang returned to the Commonwealth.

25. On March 2, 2026, the Department of Public Safety's Human Resources office submitted a formal written complaint to the Chairman of the Civil Service Commission, with a copy to the Office of the Governor, alleging a pattern of unprofessional and inappropriate conduct by Commissioner Macaranas directed at DPS employees, and requesting that the Commission conduct a review. On information and belief, that complaint remains unresolved.

C. The March 5, 2026 Reinstatement and the Expiration of the Thirty-Day Period

26. On March 5, 2026, Governor Apatang issued a memorandum rescinding the February 23, 2026 termination and reinstating Macaranas "to his position" (GOV 2026-124). Macaranas returned to work and resumed his duties as DPS Commissioner on the same date.

27. The reinstatement of Macaranas was not submitted to the Senate for advice and consent in the 30 days following the appointment or thereafter. The Senate did not hold any hearings to consider the appointment in the 90 days following the appointment and thereafter.

28. Mr. Macaranas's reinstatement on March 5, 2026 constituted his assumption of the duties of Commissioner, at a minimum in an acting capacity, following the vacancy created by the February 23, 2026 termination, within the meaning of 1 CMC §§ 2902 and 2904. 30 days from March 5, 2026 expired on or about April 4, 2026. 90 days from March 5, 2026 expired on or about June 3, 2026.

29. Accordingly, by operation of 1 CMC § 2902, on or about April 4, 2026 the appointment automatically terminated, the position of Commissioner of the Department of Public Safety became vacant, and Mr. Macaranas became statutorily disqualified from reappointment to that same position. Operation of 1 CMC § 2904 on or about June 3, 2026 would have the same outcome.

D. The Senate's Repeated and Documented Efforts to Resolve This Dispute Without Litigation

30. By letter dated May 21, 2026, Senate President King-Nabors advised Governor Apatang in writing that Mr. Macaranas's continued exercise of the powers of Commissioner without a new submission to the Senate raised serious concerns under 1 CMC § 2902, and requested that the administration identify the legal basis for its contrary position.
31. By letter dated June 2, 2026 (Sen. Comm. No. 24-233), Senate President King-Nabors memorialized a meeting held on May 26, 2026 with the Governor, and a further meeting scheduled for May 29, 2026 that did not go forward after the Senate was informed that the Attorney General was unavailable. That letter again set out the Senate's legal position under 1 CMC § 2902 and requested any written legal opinion supporting the administration's contrary view, and further proposed that, if the parties could not agree, they jointly submit the question to the Commonwealth Supreme Court by certified question under NMI Const. art. IV, § 11.
32. By letter dated June 18, 2026 (Sen. Comm. No. 24-239), copied to the Lieutenant Governor, the Speaker of the House, the Attorney General, the Chief Justice, and the Presiding Judge of the Superior Court, Senate President King-Nabors renewed the Senate's request, noted that no response to the June 2, 2026 letter had been received, and requested a written response by 11:00 a.m. on Monday, June 22, 2026.
33. By letter dated June 22, 2026 (GOV 2026-394), Governor Apatang responded, disputing the Senate's account of the events surrounding the May 29, 2026 meeting and characterizing the Senate's communications as "posturing, threats, or ultimatums," but stating that the Attorney General remained willing to discuss the matter in good faith. The June 22, 2026 letter did not identify any legal authority supporting the administration's position that Mr. Macaranas's continued occupation of the office did not require submission to the Senate under 1 CMC § 2902.
34. By letter dated June 23, 2026, Senate President King-Nabors proposed that the parties meet at the Senate Chamber on June 25 or 26, 2026, so that Senators who were then off-island could participate. By letter dated June 24, 2026 (GOV 2026-405), Governor Apatang agreed to a meeting with the Attorney General at 10:00 a.m. on Friday, June 26, 2026, to be held at the

Office of the Attorney General rather than the Senate Chamber. No one from the administration appeared for that meeting.

35. By letter dated July 20, 2026 (Sen. Comm. No. 24-251), Senate President King-Nabors made a final request that the Governor join the Senate in submitting eight specific legal questions concerning this dispute to the Commonwealth Supreme Court by certified question, and enclosed a draft joint petition. That letter advised the Governor, “in the spirit of transparency,” that the Senate’s office was simultaneously preparing a complaint for declaratory relief, to be filed only as a final recourse if the parties were unable to certify the matter to the Supreme Court, and requested the Governor’s written response by 2:00 p.m. on Friday, July 24, 2026.

36. By letter dated July 24, 2026 (GOV 2026-464), Governor Apatang declined to join the certified question petition, stating that he and the Attorney General “d[id] not believe that litigating this issue would be a prudent use of the government’s limited resources,” and urging the Senate to instead focus on fiscal matters. At no point in this correspondence, spanning more than two months and at least seven written communications, did the Governor or the Attorney General identify any legal authority for the position that Mr. Macaranas’s continued occupation of the office of Commissioner did not require submission to the Senate for advice and consent under 1 CMC § 2902.

E. The September 2026 Events

37. On September 10, 2026, Governor Apatang and Lieutenant Governor Mendiola were both physically absent from the Commonwealth. Pursuant to NMI Const. art. III, § 8(a), Senate President King-Nabors assumed the powers and duties of Acting Governor.

38. On September 11, 2026, Acting Governor King-Nabors removed Mr. Macaranas from the position of Commissioner (GOV 2026-581) and submitted the nomination of Aniceto T. Ogumoro to serve as Commissioner to the Senate for its advice and consent by (GOV 2026-582 and GOV 2026-583). As described below, the nomination was subsequently withdrawn by Governor Apatang.

39. On September 14, 2026, Governor Apatang sent a letter to Senate President King-Nabors (GOV 2026-588) stating that, “during my brief, temporary absence from the Commonwealth,” Acting

Governor King-Nabors had nominated Mr. Ogumoro for appointment as Commissioner. The letter acknowledged that NMI Const. art. III, § 8(a) “provides for the Senate President to serve as Acting Governor during the physical absence of the Governor and Lieutenant Governor,” but asserted that the provision “dates from a period before modern telecommunications and was intended to facilitate administrative continuity and orderly conduct of government business,” and “was not intended, and should not be abused, to supplant the policy agenda of the duly elected chief executive of the Commonwealth.” On that basis, Governor Apatang stated: “Accordingly, I am withdrawing the nomination of Mr. Ogumoro and rescinding the second attempt to terminate Commissioner Anthony I. Macaranas.”

40. Nothing in the text of NMI Const. art. III, § 8(a) supports the limitation Governor Apatang's September 14, 2026 letter describes. The provision states, without qualification, that when the Governor is physically absent from the Commonwealth and the Lieutenant Governor is also absent or unavailable, “the presiding officer of the senate shall be acting governor.” It does not distinguish between “administrative continuity” matters and matters of “policy agenda,” and it does not purport to limit the Acting Governor to a caretaker role. While serving as Acting Governor, Senate President King-Nabors held the full powers of the office of Governor, including the power under NMI Const. art. III, § 14 to remove the heads of executive departments. Governor Apatang's September 14, 2026 letter identifies no constitutional or statutory provision, and the Senate is aware of none, that authorizes a returning Governor to unilaterally nullify an official act validly taken by an Acting Governor within the scope of that authority.

41. Plaintiff Senate has identified persuasive authority supporting its position from the California Supreme Court. *In re Comm’n on the Governorship of Cal.*, 26 Cal. 3d 110 (1979). The California Governor was outside the state for 40 hours on a trip to Washington, D.C. During that time, the Lieutenant Governor, serving as Acting Governor, appointed a judge to fill a vacancy in the position of Presiding Justice on the Court of Appeal. Upon return to California the following day, the Governor withdrew that appointment and appointed another judge. California Supreme Court concluded that both the Lieutenant Governor’s appointment and the

Governor's subsequent withdrawal were valid: "the Lieutenant Governor has authority to exercise all gubernatorial powers of appointment while the Governor is physically absent from the state and that the Governor has authority to withdraw the appointment until the confirmation of appointment becomes effective." Id.

42. In any event, Governor Apatang's September 14, 2026 letter does not address, and does not purport to cure, Mr. Macaranas's independent and preexisting disqualification from reappointment to the position of Commissioner under 1 CMC §§ 2902 and 2904, which arose no later than April 4, 2026 and does not depend on the validity of Acting Governor King-Nabors's September 11, 2026 removal of Mr. Macaranas. Even if that removal were treated as never having occurred, Mr. Macaranas remained, both before and after September 11, 2026, disqualified from holding the position of Commissioner by operation of 1 CMC §§ 2902 and 2904.

43. By virtue of Governor Apatang's September 14, 2026 letter, Mr. Macaranas again purports to hold and exercise the powers and duties of Commissioner of the Department of Public Safety as of the filing of this Complaint, without lawful authority to do so under either theory described above.

F. Executive Circumvention of Legislative Powers

44. Throughout most of the history of the CNMI, the statutory process for gubernatorial appointments has been amended repeatedly to counter evolving tactics of the Executive to evade constitutionally required Senate approval.

45. On January 20, 2000 the CNMI Superior Court, noting that the Governor had appointed the Acting Attorney General sixteen times for a total of 504 days without Senate confirmation, made the following findings:

§§ 2902, 2904, and Article III have been disregarded and the process sidestepped. More than ninety days have passed since Kara's October 24 appointment as Acting Attorney General, yet she continues to serve in this position. . . . If these procedures are sidestepped or disregarded, then the advice and consent provisions of Article III and § 2904 are effectively rendered meaningless. This court cannot reach a conclusion other than to find a deliberate and sidestepping procedure meant to avoid the confirmation process. . . . This scheme of repeatedly withdrawing the nomination

1 of Kara directly circumvents the statutory and constitutional provisions for
2 confirmation. . . .

3
4 The court finds that the series of so-called "acting" appointments made by the
5 Governor constitute executive usurpation of the advice and consent powers of the
6 Senate as provided in Article III, §11 of the N.M.I Constitution.

7
8 The court therefore respectfully orders Kara to step down and relinquish her
9 position, and that the Governor endeavor to appoint an Attorney General with the
10 advice and consent of the Senate.

11
12 *Demapan v. Kara*, 2000 N. Mar. I. Trial Order LEXIS 32, *30-35 (2000).
13

14 46. September 19, 2007, Public Law No. 15-84 amended 1 § CMC 2904 to “apply to all
15 appointments requiring the advice and consent of the respective confirming body, regardless
16 whether one is appointed to fill a vacancy temporarily or permanently.”

17 47. September 5, 2013, Public Law No. 18-17 amended 1 CMC § 2902 “to prohibit unlimited thirty-
18 day executive acting appointments, which constitute an unreasonable delay of the appointment
19 and confirmation process of executive appointments,” citing for support the Superior Court’s
20 decision in *Demapan v. Kara*. In its prior form, § 2902 required submission to the Senate within
21 30 days after “the person was temporarily appointed.” The amendment removed ‘temporarily,’
22 added ‘or assumed the position’ alongside ‘appointed,’ and added the automatic termination
23 mechanism:

24
25 Appointments . . . shall be submitted . . . within 30 days following the date the person
26 was ~~temporarily~~ appointed or assumed the position, even in an acting capacity, due
27 to the position becoming vacant for any reason. If the appointment is not submitted
28 to the presiding officers within the 30 day period, the appointment shall
29 automatically terminate, the position shall become vacant, and the person shall not
30 be reappointed for the same position.
31

32 Public Law No. 18-17 (strikethrough and underlines in original).
33

34 48. On February 23, 2026, while Governor Apatang was out of the CNMI, Acting Governor
35 Mendiola terminated the appointment of DPS Commissioner Macaranas. On or about February
36 27, 2026, Governor Apatang returned to the CNMI. From the date of his return through March
37 4, 2026, Governor Apatang took no action regarding the termination of DPS Commissioner
38 Macaranas. During that time, Mr. Ogumoro served as Acting Commissioner. On March 5, 2026,
39 Governor Apatang “reinstated” Macaranas and did not submit to the Senate for advice and
40 consent. From May 2026 through July 2026, the Senate President repeatedly requested the

Governor to identify the legal basis for not submitting DPS Commissioner Macaranas for Senate approval, or an in-person meeting to discuss the same, as detailed above in D. No legal authority was ever identified, and no meeting materialized.

49. Thursday, September 10, 2026, the Senate was informed that the Governor was out of the Commonwealth. The Office of the Governor confirmed that the Governor had left on the afternoon of Wednesday, September 9, 2026, intending to return on Monday, September 15, 2026.

50. On the morning of Friday, September 11, 2026, the Office of the Governor, after meeting with Acting Governor King-Nabors, agreed to draft and process the required correspondence to terminate Commissioner Macaranas and nominate Mr. Ogumoro for Acting Commissioner. The letters were approved and signed by the Acting Governor shortly after noon. Hours later, after the Acting Governor asked after the status of the letters, the Office of the Governor informed him that the letters could not be delivered today for reasons including: the employee who usually delivers was not at the office; no staff at the office had a car; and Commissioner Macaranas was sick with Covid. The Acting Governor then went to the Governor's Office to wait and ensure that the letters went out as promised.

51. On Monday, September 14, 2026, in a letter to the Senate (GOV 2026-588) and in statements to the media, Governor Apatang seemed to argue that NMI Const. art. III, § 8(a) regarding physical absence from the CNMI need not be followed strictly because it was adopted in 1976 before "modern telecommunications," intended to limit the authority of the Acting Governor to be consistent with the Governor's policy agenda, and therefore, Governor Apatang had nullified the termination of Commissioner Macaranas.

52. In a separate memorandum to DPS (GOV 2026-590), Governor Apatang rescinded the termination notice, but under a different theory, asserting that because Mr. Macaranas was out on sick leave on the date of the termination notice, he was never served.

53. The actions of Governor Apatang and the Office of the Governor from February 27, 2026 to September 14, 2026 are consistent with a long history of CNMI Executives undermining and circumventing the constitutionally required advice and consent of the Senate.

V. CLAIMS FOR RELIEF

COUNT I — Declaratory Judgment (7 CMC § 2421; Com. R. Civ. P. 57)

54. Plaintiff incorporates by reference all preceding paragraphs.

55. An actual and justiciable controversy exists between the Senate and Defendants concerning whether Mr. Macaranas's appointment as Commissioner automatically terminated by operation of 1 CMC § 2902 on or about April 4, 2026, whether the position of Commissioner has since been vacant, whether Governor Apatang's September 14, 2026 letter effectively nullified Acting Governor King-Nabors's September 11, 2026 removal of Mr. Macaranas, and whether Mr. Macaranas currently holds valid authority to exercise the powers of Commissioner.

56. The Senate is entitled to a declaratory judgment, pursuant to 7 CMC § 2421 and Com. R. Civ. P. 57, that: (a) Mr. Macaranas's March 5, 2026 reinstatement constituted an assumption of the duties of Commissioner, following a vacancy, within the meaning of 1 CMC § 2902; (b) more than 30 days elapsed after March 5, 2026 without submission of Mr. Macaranas's appointment to the Senate for advice and consent; (c) by operation of 1 CMC § 2902, that appointment automatically terminated on or about April 4, 2026, the position became vacant, and Mr. Macaranas is disqualified from reappointment to that same position; (d) any purported reinstatement or reappointment of Mr. Macaranas as Commissioner is void and without legal effect; (e) Governor Apatang's September 14, 2026 letter purporting to rescind Acting Governor King-Nabors's September 11, 2026 removal of Mr. Macaranas is void and without legal effect, both because a returning Governor lacks authority to unilaterally nullify an official act validly taken by an Acting Governor within the scope of NMI Const. art. III, §§ 8(a) and 14, and because, independently, Mr. Macaranas remained disqualified from reappointment to the position of Commissioner under 1 CMC § 2902 regardless of the validity of that removal; and (f) Governor Apatang's second September 14, 2026 letter purporting to rescind Acting Governor King-Nabors's September 11, 2026 removal of Mr. Macaranas is void and without legal effect because Mr. Macaranas remained disqualified from reappointment to the position of Commissioner under 1 CMC § 2902 regardless of the validity of that removal.

COUNT II — Relief in the Nature of Quo Warranto (1 CMC § 3202)

1 57. The Senate incorporates by reference all preceding paragraphs.

2 58. Mr. Macaranas continues to exercise, and purports to hold lawful authority to exercise, the
3 powers and duties of Commissioner of the Department of Public Safety, notwithstanding his
4 statutory disqualification under 1 CMC § 2902 and the absence of any lawful basis for Governor
5 Apatang's September 14, 2026 attempt to nullify Acting Governor King-Nabors's removal of
6 him.

7 59. The Senate is entitled to relief in the nature of quo warranto, pursuant to 1 CMC § 3202,
8 adjudicating that Mr. Macaranas lacks lawful authority to hold or exercise the powers of the
9 office of Commissioner of the Department of Public Safety, and ousting him from further
10 exercise of that office.

11 **COUNT III — Injunctive Relief (Com. R. Civ. P. 65)**

12 60. The Senate incorporates by reference all preceding paragraphs.

13 61. Unless restrained, Mr. Macaranas will continue to exercise the powers and duties of
14 Commissioner of the Department of Public Safety, and Governor Apatang and the Office of the
15 Governor will continue to treat him as the lawful holder of that office, causing ongoing and
16 irreparable injury to the Senate's constitutional advice-and-consent authority and to the public
17 interest in the lawful administration of the Department of Public Safety, for which the Senate
18 has no adequate remedy at law.

19 62. The Senate is entitled to a temporary restraining order and preliminary and permanent injunctive
20 relief, pursuant to Com. R. Civ. P. 65, restraining Mr. Macaranas from exercising the powers
21 and duties of Commissioner of the Department of Public Safety, and restraining Governor
22 Apatang and the Office of the Governor from permitting or directing him to do so or otherwise
23 treating him as the lawful holder of that office, pending further order of this Court.

24 63. The Senate is entitled to a temporary restraining order and preliminary and permanent injunctive
25 relief, pursuant to Com. R. Civ. P. 65, restraining Governor Apatang and the Office of the
26 Governor from taking actions to circumvent the constitutionally required advice and consent of
27 the Senate.
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff the Senate of the Commonwealth of the Northern Mariana Islands
3 respectfully requests that this Court:

- 4 A. Enter a declaratory judgment as set forth in Count I above;
- 5 B. Enter judgment in the nature of quo warranto as set forth in Count II above;
- 6 C. Issue a temporary restraining order, and thereafter a preliminary and permanent
7 injunction, restraining Anthony Macaranas from exercising the powers and duties of Commissioner of
8 the Department of Public Safety, and restraining Governor Apatang and the Office of the Governor
9 from permitting or directing him to do so or otherwise treating him as the lawful holder of that office,
10 or from taking other actions to circumvent the constitutionally required advice and consent of the
11 Senate;
- 12 D. Award Plaintiff reasonable attorneys' fees and costs; and
- 13 E. Grant such further relief as the Court deems just and proper.
- 14

15 DATED: September 18, 2026

16
17 RESPECTFULLY SUBMITTED

18
19 CNMI Senate
20 Karl R. King-Nabors, Senate President

21
22 By: /s/
23 David Karch (T0173)
24 Senate Legal Counsel
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Executed on September 18, 2026, on Saipan, Commonwealth of the Northern Mariana Islands.

/s/
Karl R. King-Nabors
President of the Senate