



PHILJA Bulletin



October to December 2005

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From the Chancellor's Desk

Topping our list of achievements for this period are “firsts” in our continuing training programs - the 1st Orientation Seminar-Workshop for newly appointed Clerks of Court and the 1st Family Mediation Design Workshop. Prior to the latter, a study tour to Canada, under CIDA auspices, was organized to observe procedures thereat. Agama (similar to CAM) Arbitration Council Proceedings were introduced at the 4th Seminar on the *Shari'a* Indigenous and Local Justice System. The inclusion of non-court employees to this seminar was widely appreciated as an effective tool in the peace process.

Also a “first” is the introduction of the e-Library by Associate Justice Antonio T. Carpio at the Basic Computer Training for *Sandiganbayan* Justices. PHILJA’s Fax/Electronic Alerts have been included in the e-Library.

Making progress are our sustained efforts in providing venues for discussions and training seminars for lawyers and judges alike on Criminal Law, Anti-Terrorism and Evidence Gathering, Juvenile and Domestic Relations, recent developments in Tax Laws and Jurisprudence and Environmental Law. A Multi-Sectoral Seminar-Workshop on Agrarian Justice was conducted in November, confirming the Academy’s broad and timely embrace of issues that necessitate education and training.

Convention-Seminars held for different court personnel included workshops on the Code of Conduct. Continuing Legal Education was held for Court of Appeals Attorneys in November. Code of Conduct Programs were also held for the Justices of the Court of Appeals in Manila and in Cagayan de Oro City and for the Clerks of Court of Regions III, V and X.

Continuing orientation and re-orientation Seminars on Court-Annexed Mediation (CAM) were held for both judges and lawyers alike.

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PHILJA ACADEMIC PROGRAMS

38TH ORIENTATION SEMINAR-WORKSHOP FOR NEWLY APPOINTED JUDGES

The 38th Orientation Seminar-Workshop for Newly Appointed Judges was held on November 28 to December 9, 2005, at the PHILJA Development Center, Tagaytay City. In attendance were forty-two (42) judges, comprising thirty-one (31) newly appointed judges, nine (9) promoted judges and two (2) laterally transferred judges.

A. New Appointments

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION

Hon. Esteban A. Tacla, Jr.
RTC Br. 208, Mandaluyong City

REGION I

Hon. Joseph A. Patnaan
RTC Br. 35, Bontoc, Mt. Province

REGION II

Hon. Felipe J. Torio II
RTC Br. 22, Cabagan, Isabela

REGION IV

Hon. Jaime C. Blancaflor
RTC Br. 26, Sta. Cruz, Laguna
Hon. Ronaldo B. Martin
RTC Br. 73, Antipolo, Rizal
Hon. Dennis Patrick Z. Perez
RTC Br. 67, Binangonan, Rizal

REGION V

Hon. Amy Ana L. De Villa-Rosero
RTC Br. 11, Ligao City, Albay

REGION VI

Hon. Gloria G. Madero
RTC Br. 29, Iloilo City

REGION VII

Hon. Esperanza Isabel E. Poco-Deslate
RTC Br. 19, Roxas City

REGION X

Hon. Emmanuel E. Escatron
RTC Br. 2, Butuan City, Agusan del Norte

REGION XII

Hon. Sahara U. Silongan
RTC Br. 15, Shariff Aguak, Maguindanao

MUNICIPAL TRIAL COURTS IN CITIES

REGION I

Hon. Carlito A. Corpuz
MTCC San Fernando City, La Union

REGION III

Hon. John Voltaire C. Venturina
MTCC Gapan City, Nueva Ecija
Hon. Wenceslao Trese
MTCC Br. 2, Cabanatuan City, Nueva Ecija

REGION IV

Hon. Dorcas Ferriols-Perez
MTCC Br. 1, Batangas City

REGION V

Hon. Nestor M. Hermida
MTCC Sorsogon City

REGION X

Hon. Marissa P. Estabaya
MTCC Valencia City, Bukidnon
Hon. Hector B. Salise
MTCC Br. 1, Butuan City, Agusan del Norte
Hon. Rodolfo D. Vapor
MTCC Tangub City, Misamis Occidental

MUNICIPAL TRIAL COURTS

REGION I

Hon. Ruben A. Corpuz
MTC Bangar, La Union
Hon. Jeovannie C. Ordoño
MTC Bacnotan, La Union

REGION II

Hon. Paul R. Attolba, Jr.
MTC Bayombong, Nueva Vizcaya

REGION III

Hon. Emmanuel Telesforo F. Afable
MTC San Antonio, Zambales
Hon. Maria Maruja N. Mendoza
MTC Calumpit, Bulacan

REGION IV

Hon. Myla Villavicencio-Olan
MTC Padre Garcia, Batangas
Hon. Conrado L. Zumaraga
MTC Cabuyao, Laguna
Hon. Paul A. Beloso
MTC Sariaya, Quezon

REGION V

Hon. Lorna B. Santiago-Ubalde
MTC Virac, Catanduanes

MUNICIPAL CIRCUIT TRIAL COURTS

REGION IV

Hon. Eduardo T. Abergos
MCTC Mabini-Tingloy, Batangas

REGION V

Hon. Angel A. Tadeo
MCTC San Jose, Presentacion, Camarines

REGION VI

Hon. Jemena A. Arbis
MCTC Makato-Tangalan, Aklan

B. Promotions**REGIONAL TRIAL COURTS**

NATIONAL CAPITAL JUDICIAL REGION

Hon. Jansen R. Rodriguez
RTC Br. 6, Manila
Hon. Luisito G. Cortez
RTC Br. 84, Quezon City
Hon. Rosanna Fe Romero-Maglaya
RTC Br. 88, Quezon City
Hon. Ma. Teresa E. de Guzman
RTC Br. 131, Caloocan City
Hon. Maria Rowena Modesto San Pedro
RTC Br. 158, Pasig City

REGION I

Hon. Emma S. Ines-Parajas
RTC Br. 52, Tayug, Pangasinan

REGION IV

Hon. Socrates A. Erasmo
RTC Br. 30, San Pablo City, Laguna

REGION V

Hon. Rogelio LL. Dacara
RTC Br. 37, Iriga City, Camarines Sur

REGION XII

Hon. Milanio M. Guerrero
RTC Br. 20, Tacurong, Sultan Kudarat

C. Lateral Transfers**MUNICIPAL TRIAL COURTS IN CITIES**

REGION IV

Hon. Dinah Evangeline B. Bandong
MTCC Br. 2, San Pablo City, Laguna
Hon. Amy Melba S. Belulia
MTCC Br. 3, San Pablo City, Laguna

**1ST ORIENTATION SEMINAR-WORKSHOP
FOR NEWLY APPOINTED CLERKS OF COURT**

The 1st Orientation Seminar-Workshop for Newly Appointed Clerks of Court was held on November 9 to 11, 2005, at the PHILJA Development Center, Tagaytay City. In attendance were thirty-eight (38) newly appointed clerks of court.

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION

Atty. Clemente M. Clemente
RTC OCC, Manila
Atty. Rolando A. Cruz
RTC Br. 3, Manila
Atty. Moses V. Florendo
RTC Br. 15, Manila
Atty. Maria Theresa O. Basilio
RTC Br. 34, Manila
Atty. Faustina B. Fernandez
RTC Br. 81, Quezon City
Atty. Noli A. De Pedro
RTC Br. 82, Quezon City
Atty. Rosemary B. Dela Cruz-Honrado
RTC Br. 96, Quezon City
Atty. Shinglinde Desiree P. Glipo
RTC Br. 218, Quezon City
Atty. Glenda B. Columna-Duyapa
RTC Br. 224, Quezon City
Atty. Luis Christopher A. Ballelos
RTC OCC, Pasay City
Atty. Serafin S. Salazar
RTC Br. 110, Pasay City
Atty. Remiebel U. Mondia
RTC Br. 118, Pasay City
Atty. Janette O. Herras-Baggas
RTC Br. 231, Pasay City
Atty. Connie P. Alvaro-Dimaculangan
RTC Br. 130, Caloocan City
Atty. Teodorico L. Diaz
RTC Br. 136, Makati City
Atty. Cecilio N. Tobillo
RTC Br. 142, Makati City
Atty. Gaile Dante A. Caraan
RTC Br. 165, Pasig City
Atty. Grace M. Salamat
RTC Br. 208, Mandaluyong City
Atty. Zenalfie M. Cuenco
RTC Br. 72, Malabon City
Atty. Kirk M. Aniñon
RTC OCC, Muntinlupa City

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REGION II

Atty. Rizalina G. Baltazar-Aquino
RTC Br. 33, Ballesteros, Cagayan
 Atty. Consuelo T. Claravall
RTC Br. 16, Ilagan, Isabela
 Atty. Jonathan A. Cristobal
RTC OCC, Santiago City, Isabela
 Atty. Wilhelmino N. Dalit
RTC Br. 17, Ilagan, Isabela

REGION III

Atty. Rowena H. Rama
RTC Br. 76, Malolos, Bulacan

REGION IV

Atty. Melville Wendell L. Aureada
RTC Br. 64, Mauban, Quezon

REGION V

Atty. Darwin P. Dimen
RTC Br. 45, Masbate, Masbate

REGION VI

Atty. Ma. Asuncion A. Soriano
RTC Br. 18, Roxas City, Capiz

REGION XI

Atty. Thea G. Guadalupe
RTC Br. 18, Digos, Davao del Sur

MUNICIPAL TRIAL COURTS IN CITIES

REGION I

Mr. Noel R. Manipon
MTCC OCC, San Fernando City, La Union

REGION II

Mr. Victor Emerito S. Agcaoili
MTCC Br. 1, Santiago City

REGION III

Mr. Arvin J. Panlilio
MTCC Br. 1, San Fernando City, Pampanga

REGION IV

Ms. Carmen C. Oncinian
MTCC Br. 2, Cavite City

REGION XI

Ms. Maria Luisa F. Elorde-Ellima
MTCC Br. 1, Island Garden City of Samal

MUNICIPAL TRIAL COURTS

REGION III

Ms. Marian M. Diwa
MTC Abucay, Bataan

REGION V

Ms. Rosemarie A. Cortes
MTC Siruma, Camarines Sur

MUNICIPAL CIRCUIT TRIAL COURTS

REGION VIII

Mr. Leocadio P. Abaloyan, Jr.
MCTC Guiuan-Mercedes, Eastern Samar

REGION XII

Ms. Segundina C. Ora
MCTC Kauswagan-Poona-Piagapo, Lanao del Norte

RJCEP (LEVEL 4)

PHILJA conducted the 8th *Regional Judicial Career Enhancement Program (RJCEP, Level 4)* for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and First Level Trial Courts of the Tenth Judicial Region on October 26 to 28, 2005, at the Dynasty Court Hotel, Cagayan de Oro City. A total of one hundred ninety (190) participants attended the program, comprising thirty-four (34) Regional Trial Court judges, thirty-five (35) First Level Trial Court judges, eighty-two (82) clerks of court and branch clerks of court who are lawyers, and thirty-nine (39) clerks of court and branch clerks of courts who are non-lawyers.

Moreover, eighty-six (86) Court of Appeals-Cagayan de Oro personnel consisting of lawyers and non-lawyers joined the one day activity for the Code of Conduct for Court Personnel.

The 9th *Regional Judicial Career Enhancement Program (RJCEP, Level 4)* for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and First Level Trial Courts of the Fifth Judicial Region was conducted by the Academy on November 16 to 18, 2005, at the Casablanca Hotel, Legaspi City. Two hundred twenty-six (226) participants attended, comprising fifty (50) Regional Trial Court judges, twenty-six (26) First Level Trial Court judges, fifty-nine (59) clerks of court / branch clerks of court who are lawyers and ninety-one (91) clerks of court / branch clerks of court who are non-lawyers.





SPECIAL FOCUS PROGRAMS

RTD ON CRIMINAL LAW, ANTI-TERRORISM AND EVIDENCE GATHERING

The *Roundtable Discussion on Criminal Law, Anti-Terrorism and Evidence Gathering* was conducted by the Academy, in cooperation with the Embassy of the United States of America on October 6, 2005, at the Training Room, Supreme Court, Manila. Eighteen (18) participants attended the roundtable discussion.

Professor Sara Sun Beale, Esq., Charles L.B. Lowndes Professor of Law, Duke University School of Law, Durham, North Carolina was the guest speaker. She delivered her paper entitled, *"Issues and Trends in Terrorism Prosecution: An American Perspective on the Philippine Anti-Terrorism Bill."*

Issues raised and discussed during the RTD were the problem of having two (2) definitions of terrorism; the problem of determining intent to commit terrorist acts; the abuse of certain provisions regarding warrantless arrests; penalties for violations of acts which are considered terrorist acts; and the possibility of abuse of the proposed anti-terrorism law. The RTD also allowed a discussion of certain provisions in American law dealing with the prosecution of terrorist acts particularly, the detention of "material witnesses" and combatants without a warrant or without an offense being filed against the detained person.

4TH REGIONAL MULTI-SECTORAL SEMINAR- WORKSHOP ON JUVENILE AND DOMESTIC RELATIONS JUSTICE (ADVANCED LEVEL)

PHILJA, in partnership with the United Nations Children's Fund (UNICEF), *Adhikain Para Sa Karapatang Pambata* – Ateneo Human Rights Center (AKAP-AHRC), United States Agency for International Development (USAID), and The Asia Foundation (TAF) conducted the *4th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)* on October 12 to 14, 2005, at the Bohol Tropics Resort, Tagbilaran City. Fifty-nine (59) participants attended the seminar from nine (9) designated Family Courts in Regions VII, VIII & IX. They were composed of

judges, branch clerks of court, prosecutors, lawyers from the Public Attorney's Office (PAO), and selected officers of the Philippine National Police (PNP) and Bureau of Jail Management and Penology (BJMP) handling Jail women and children's cases.

Topics and activities covered by the seminar-workshop were updates on new laws on family, women, and children; dispute resolution skills; and the drafting and validation of rules and guidelines for family courts, specifically on adoption, diversion, Court Appointed Special Advocate/Guardian *Ad Litem* (CASA/GAL), use of live link television, and mediation on family law cases.



Designated Family Court Judges who participated at the *4th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)*.

SEMINAR ON RECENT DEVELOPMENTS IN TAX LAWS AND JURISPRUDENCE

The Academy, in cooperation with the Court of Tax Appeals (CTA) conducted the *Seminar for Court of Tax Appeals Attorneys on Recent Developments in Tax Laws and Jurisprudence* on October 19 to 21, 2005, at the PHILJA Development Center, Tagaytay City. There were thirty-three (33) participants, comprising of lawyers from the Court of Tax Appeals, Department of Finance, Department of Justice, Office of the Solicitor General, Tariff Commission, Bureau of Internal Revenue, Bureau of Customs, and National Tax Research Center.

Topics discussed were the CTA Expansion Law (R.A. No. 9282); the New Expanded VAT Law (R.A. No. 9337); Updates in Tax Jurisprudence; Post Entry Audit Law (R.A. No. 9135); Tax Reliefs and Remedies; Recent Developments on Tariff and Customs Code; Local Taxation and Real Property Tax Law; Researching, Drafting and Writing; and Judicial and Legal Ethics for CTA.



SEMINARS ON STRENGTHENING THE SHARI'A COURT SYSTEM

A series of Seminars on Strengthening the *Shari'a* Court System were conducted by the Academy, in partnership with the United Nations Development Programme (UNDP), the Mindanao Economic Development Council (MEDCo), and the Program Management Office of the Supreme Court (PMO-SC).

The 3rd Seminar on Strengthening the *Shari'a* Court System was held on November 7 to 11, 2005, at the Garden Orchid Hotel, Zamboanga City. There were fifty-three (53) participants, comprising of judges, clerks of court, legal researchers, court stenographers, court interpreters, sheriffs, clerks, process servers, representatives from the Armed Forces of the Philippines (AFP), Philippine National Police (PNP), National Bureau of Investigation (NBI), Public Attorney's Office (PAO), and Commission on Human Rights (CHR).

The 4th Seminar on Strengthening the *Shari'a* Court System was conducted on November 14 to 18, 2005, also at the Garden Orchid Hotel, Zamboanga City. A total of forty-six (46) participants attended the seminar, composed of clerks of court, legal researcher, stenographers, court interpreters, sheriffs, clerks, process servers, and representatives from a Non-Government Organization, AFP, PNP, PAO, and CHR.

The seminar aimed at improving the services of the *Shari'a* Court System by enhancing the skills, knowledge, and understanding of *Shari'a* judges, lawyers and counselors on *Shari'a* and Philippine Procedural Law.



3rd Seminar on Strengthening the *Shari'a* Court System held on November 7 to 11, 2006, at the Garden Orchid Hotel, Zamboanga City.

MULTI-SECTORAL SEMINAR-WORKSHOP ON AGRARIAN JUSTICE

A Multi-Sectoral Seminar-Workshop on Agrarian Justice was conducted by the Academy on November 8 to 11, 2005, at the Development Academy of the Philippines (DAP), Tagaytay City. The activity was co-sponsored by the Agrarian Justice Foundation, Inc. (AJFI), in collaboration with the Department of Agrarian Reform (DAR), Department of Justice (DOJ), *Sentro ng Alternatibong Lingap Panligal* (SALIGAN), and the Philippine Ecumenical Action for Community Empowerment (Peace Foundation). Thirty-nine (39) participants attended the seminar-workshop, comprising of judges, prosecutors, lawyers from the Public Attorney's Office (PAO), and representatives from the Department of Agrarian Reform (DAR), Philippine National Police (PNP), and civil societies.

Senator Wigberto E. Tañada, President of the Agrarian Justice Foundation Inc. (AJFI) was the "Keynote Speaker." In his speech, he reminded everyone that barely three (3) years from now, the Comprehensive Agrarian Reform Program under R.A. No. 8532 will end unless Congress still feels that it is the "centerpiece" program of the government. He also mentioned the seeming lack of interest of many legislators who are landowners themselves in extending the life of CARP beyond June 2008. He urged everyone who believes in the wisdom and necessity of agrarian reform to do all that can be done to help bring about the distribution of as much of the remaining "carpable" lands as possible before time and money run out.

The activity focused on the Social and Constitutional Context of Agrarian Reform, Salient Features of Agrarian Laws, Implementation of the Comprehensive Agrarian Reform Program (CARP), Jurisdiction in Agrarian Reform Cases, and Criminal Law and Agrarian Reform.

ENVIRONMENTAL LAW SEMINAR-WORKSHOP FOR SELECTED JUDGES

The *Environmental Law Seminar-Workshop for Selected Judges in the Provinces of Cebu and Palawan* was conducted by the Academy, in partnership with The Royal Netherlands Embassy assisted by the United Nations Development Programme – Global Environment Facility – Small Grants Programme

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CONVENTIONS

PACE

The Academy, with the Philippine Association of Court Employees (PACE), conducted the 3rd *Convention and Seminar of the Philippine Association of Court Employees (PACE)* with the theme, "Public Accountability of Court Employees," on October 6 and 7, 2005, at the New City Commercial Center (NCCC), Matina, Davao City. One thousand three hundred sixteen (1,316) delegates attended the convention and seminar.

Ms. Rose D. Amizola accepted the responsibility as the incoming PACE National President in her Acceptance Speech. She pledged to continue with the unfinished plans of Mr. Claudio Hoybia, outgoing PACE President and to work for more benefits for the PACE members.

CLAPHIL

The 2nd *National Convention and Seminar-Workshop of the Court Librarians Association of the Philippines (CLAPHIL)* with the theme, "Court Librarians: Partners in the Speedy Administration of Justice," was conducted by PHILJA with CLAPHIL on October 12 to 14, 2005, at the Buenos Aires Mountain Resort, Bago City, Negros Occidental. A total of twenty-eight (28) delegates attended the convention-seminar, comprising twenty-three (23) court librarians from the thirteen (13) judicial regions and five (5) court personnel from the courts of Bacolod City.

PJA

PHILJA with the Philippine Judges Association (PJA) conducted the 9th *Convention and Seminar of the PJA* on October 20 and 21, 2005, at the Manila Hotel, City of Manila. Five hundred ninety-nine (599) Regional Trial Court judges nationwide attended the convention-seminar.

Chief Justice Hilario G. Davide, Jr., inspired the judges in his "Keynote Address." CJ Davide stressed that "in these times it is not enough to be an instrument of justice. We must be disciples of the law and fervent ministers of the temple of

justice. We must be the personification of justice. And remember that justice is not in a vacuum and its inseparable companions – truth, love and peace – do not operate in a vacuum either. Therefore, the Judiciary should not operate in a vacuum."

MeTCJAP

The 7th *Convention-Seminar of the Metropolitan and City Judges Association (MeTCJAP)* was conducted by the Academy and MeTCJAP on October 26 and 28, 2005, at the New World Hotel, Makati City. A total of one hundred twenty-three (123) judges nationwide attended the three (3) day convention-seminar.

PTJLI

The Academy, in partnership with the Philippine Trial Judges League, Inc. (PTJLI) conducted the 12th *Convention-Seminar of the PTJLI* on November 16 to 18, 2005, at the Dynasty Court Hotel, Cagayan de Oro City. The convention-seminar theme for the year was dubbed, "Judiciary in its 104th year of Continuing Dispensation of Justice in the First Level Courts." Two hundred ten (210) judges from the Municipal Trial Courts (MTCs), Municipal Circuit Trial Courts (MCTCs), and *Shari'a* Circuit Courts (SHCCs) nationwide attended the convention-seminar.

ENVIRONMENTAL LAW SEMINAR-WORKSHOP FOR SELECTED JUDGES

(Continued from previous page)

(UNDP-GEF-SGP) International Visitor Program – Philippines Alumni Foundation, Inc., and the Haribon Foundation through the Anest for Biodiversity Conservation in the Philippine Project (PN-11780) on November 30 to December 2, 2005, at the Cebu Business Hotel, Colon cor. Junquera St., Cebu City.

A total of twenty-five (25) participants attended the seminar-workshop composed of twenty (20) judges, one (1) representative from Environmental Legal Assistance Center (ELAC), three (3) PAMANAKA farmers, and one (1) representative from the Department of Environment and Natural Resources (DENR).



ON MEDIATION

ORIENTATION SEMINAR-WORKSHOPS

Under the General Santos Mediation Program, the Academy's Philippine Mediation Center (PMC), in cooperation with the United States Agency for International Development (USAID), and The Asia Foundation (TAF) conducted the *Orientation Seminar-Workshop on Mediation for Judges and Lawyers* on October 3 and 4, 2005, at the Casa Luisa Restaurant, General Santos City. This was attended by fifty-five (55) participants comprising of judges and lawyers.

BASIC SEMINAR-WORKSHOP

The Academy's Philippine Mediation Center (PMC) conducted the *Basic Seminar-Workshop on Mediation* under the Davao Mediation Program on October 24 to 28, 2005, at the Royal Mandaya Hotel, Davao City. There were fifty-five (55) participants comprising of lawyers, social workers, engineers, religious ministers, Local Government Unit officials, retired professionals, businessmen, academicians, and media practitioners.

BAGUIO ADVOCACY FORUM

The *Baguio Advocacy Forum* was conducted by the Academy's Philippine Mediation Center (PMC), the Justice Reform Initiatives Support (JURIS) Project, and the National Judicial Institute (NJI) of Canada on October 12 and 13, 2005, at the Baguio Country Club, South Drive, Baguio City. Two hundred forty-eight (248) participants attended comprising of judges, clerks of court, prosecutors, City Council members, lawyers, media representatives, businessmen and professionals, representatives from the Cordillera Indigenous Peoples NGO and Cordillera Religious leaders, academicians, police, and PHILJA-JURIS representatives,

The primary objective of the advocacy forum was to inform key stakeholders in Benguet and La Union of court-annexed mediation, Judicial Dispute Resolution (JDR) and JURIS Project as well as the PHILJA's plan to set-up an ADR Model Court in Baguio City in 2006.

1ST FAMILY MEDIATION DESIGN WORKSHOP

PHILJA conducted the *1st Family Mediation Design Workshop* on November 11, 2005, at the Asian Institute of Management (AIM) Conference Center, Benvidez cor. Trasierra Sts., Legaspi Village, Makati City.

Key actors for family mediation program were identified in the workshop as follows: tribal leaders, priests/ministers; present corps of mediators; court social workers; branch clerks of court; legal researchers; retired Family Court justices and judges; judges in JURIS sites; and lawyers. During the workshop, the participants also noted that mediators and judges already have skills on marriage counseling; psycho-social skills; spirituality; child and gender sensitivity; skills to address power imbalance; and legal knowledge that only need to be enhanced.

From the Chancellor's Desk

(Continued from page 1)

The UNICEF cited the PHILJA for its invaluable role in the protection of children's and women's rights highlighting the Academy's emphasis on diversion, the Rule on the Examination of a Child Witness, and the effective implementation of the law on violence against women and children. These were focused on at the 4th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level) held in Tagbilaran City in October.

Honorable Associate Justice Artemio V. Panganiban (now Chief Justice) delivered the 10th Lecture at the *Chief Justice Hilario G. Davide, Jr. Distinguished Lecture Series* on the *Totality of Reforms*, a comprehensive presentation of an overall perspective of Judicial Reforms fittingly preceding the Panel Discussion on *Challenges to Procedural Reforms*.

In November, at the Baguio Advocacy Forum, a cultural immersion program on the life and culture of the indigenous people of the Cordilleras, the tribal leaders shared with JURIS their mediation structures and systems as well as cases involving disputes among Igorot tribes.

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LABOR LAW

What constitutes sickness, resulting disability or death to be compensable; occupational disease

Thus, even if the "Takayasu's Disease" is not listed, perhaps for being rare and still mysterious, there can be no question that being associated with PTB which is a listed occupational disease, the death of petitioner's husband is compensable under Annex A of the Amended Rules on Employees Compensation.

Any doubt on this matter has to be interpreted in favor of the employee, considering that P.D. No. 626 is a social legislation. In this case, enough substantial evidence has been shown to convince us that the surviving spouse of the deceased worker is entitled to compensation under said P.D. No. 626, because the records show his ailment and death have been associated with PTB, a listed compensable disease.

(*Quisumbing, J., Precy P. Jacang v. Employees' Compensation Commission and Social Security System (Contemporary Services, Inc.)*, G.R. No. 151893, October 20, 2005)

From the Chancellor's Desk

(Continued from previous page)

With an all-encompassing 12th Lecture on *The State of the Judiciary*, via webcasting, Hon. Chief Justice Hilario G. Davide, Jr. auspiciously ended the Lecture Series, barely a week from his official retirement from the Supreme Court.

2005 has been another busy and fulfilling year for the Academy. Thus, we end the year, satisfied at the successful outcomes of the numerous activities the Academy had undertaken. We, at the PHILJA, are most grateful, not only to the Chief Justice, the Court *en banc* and the Board of Trustees, but also the other offices of the Court and our partners in development, for their full support and assistance. We assure them that we are not resting on our laurels. Thank you all, my fellow workers in the PHILJA, for your hard work and cooperation.

Greetings to all in this season of joy.

REMEDIAL LAW

Petition for review under Rule 43; whether it is a proper mode of appeal from a reso of the Secretary of Justice directing the prosecutor to file information in criminal case; and whether the conduct of preliminary investigation by the prosecutor is a quasi-judicial function

Rule 43 of the 1997 Rules of Civil Procedure clearly shows that it governs appeals to the Court of Appeals from decisions and final orders or resolutions of the Court of Tax Appeals or quasi-judicial agencies in the exercise of their quasi-judicial functions. The Department of Justice is not among the agencies enumerated in Section 1 of Rule 43. *Inclusio unius est exclusio alterius*.

In *Bautista v. Court of Appeals*, we held that a preliminary investigation is not a quasi-judicial proceeding, thus: [t]he prosecutor in a preliminary investigation does not determine the guilt or innocence of the accused. He does not exercise adjudication nor rule-making functions. Preliminary investigation is merely inquisitorial, and is often the only means of discovering the persons who may be reasonably charged with a crime and to enable the fiscal to prepare his complaint or information. It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof. While the fiscal makes that determination, he cannot be said to be acting as a quasi-court, for it is the courts, ultimately, that pass judgment on the accused, not the fiscal.

Though some cases describe the public prosecutor's power to conduct a preliminary investigation as quasi-judicial in nature, this is true only to the extent that, like quasi-judicial bodies, the prosecutor is an officer of the executive department exercising powers akin to those of a court, and similarity ends at this point.

(*Quisumbing, J., Ferdinand T. Santos, Robert John Sobrepeña, and Rafael Perez De Tagle, Jr. v. Wilson Go*, G.R. No. 156081, October 19, 2005)



LABOR LAW

Twin requirement of notice and hearing; whether an attitude problem is a ground for dismissing an employee; illegal dismissal

An employee who cannot get along with his co-employees is detrimental to the company for he can upset and strain the working environment. Without the necessary teamwork and synergy, the organization cannot function well. Thus, management has the prerogative to take the necessary action to correct the situation and protect its organization. When personal differences between employees and management affect the work environment, the peace of the company is affected. Thus, an employee's attitude problem is a valid ground for his termination. It is a situation analogous to loss of trust and confidence that must be duly proved by the employer.

The law requires the employer to give the worker to be dismissed two (2) written notices before terminating his employment, namely, (1) a notice, which apprises the employee of the particular acts or omissions for which his dismissal is sought; and (2) the subsequent notice, which informs the employee of the employer's decision to dismiss him.

The letter never gave respondent an opportunity to explain herself, hence denying her due process. Respondent was illegally dismissed, because petitioners failed to show adequately that a valid cause for terminating respondent exists, and because petitioners failed to comply with the twin requirement of notice and hearing.

(*Quisumbing, J., Heavylift Manila, Inc. and/or Josephine Evangelio, Administrative & Finance Manager, and Capt. Rolando Tolentino v. The Court of Appeals, Ma. Dottie Galay and the National Labor Relations Commission, G.R. No. 154410, October 20, 2005*)

Disease as a ground for dismissal

The rule is explicit. For a dismissal on the ground of disease to be considered valid, two requisites must concur: (a) the employee suffers from a disease which cannot be cured within six months and his continued employment is prohibited by law or prejudicial to his health or to the health of his co-employees, and (b) a certification to that

effect must be issued by a competent public health authority.

The burden of proving the validity of the dismissal rests on the employer. As such, the employer must prove that the requisites for a valid dismissal due to a disease have been complied with. In the absence of the required certification by a competent public health authority, this Court has ruled against the validity of the employee's dismissal.

In *Triple Eight Integrated Services, Inc. v. NLRC*, we held that: The requirement for a medical certificate under Article 284 of the Labor Code cannot be dispensed with; otherwise, it would sanction the unilateral and arbitrary determination by the employer of the gravity or extent of the employee's illness and thus defeat the public policy on the protection of labor....

(*Ynares-Santiago, J., Manly Express Inc. and Siu Eng T. Ching v. Romualdo Payong, Jr., G.R. No. 167462, October 25, 2005*)



CIVIL LAW

Contract to sell distinguished from contract of sale; whether the remedy of ejectment can be legally availed of.

It is true that persons dealing with registered property can rely solely on the certificate of title and need not go beyond it. However, as correctly held by the Court of Appeals, this rule does not apply to banks. Banks are required to exercise more care and prudence than private individuals in dealing even with registered properties for their business is affected with public interest. As master of its business, petitioner should have sent its representatives to check the assigned properties before signing the compromise agreement and it would have discovered that respondent was already occupying one of the condominium units and that a contract to sell existed between respondent and PMRDC. In our view, petitioner was not a purchaser in good faith and we are constrained to rule that petitioner is bound by the contract to sell.

Nonetheless, in this case, the contract to sell does not by itself give respondent the right to possess the property. Unlike in a contract of sale,

(Continued on NEXT page)

CIVIL LAW (continued)

here in a contract to sell, there is yet no actual sale nor any transfer of title, until and unless, full payment is made. The payment of the purchase price is a positive suspensive condition, the failure of which is not a breach, casual or serious, but a situation that prevents the obligation of the vendor to convey title from acquiring an obligatory force. Respondent must have fully paid the price to acquire title over the property and the right to retain possession thereof. In cases of non-payment, the unpaid seller can avail of the remedy of ejectment since he retains ownership of the property.

Respondent avers that since ejectment cases are decided merely on the basis of affidavits and position papers, his affidavit before the MeTC sufficiently proves his full payment of the purchase price. Nothing could be more erroneous because even though ejectment cases are governed by the Rules on Summary Procedure, there is still need to present substantial evidence to support respondent's claim of full payment. Section 9 of the Rules on Summary Procedure provides that parties shall submit, together with their position papers, the affidavits of their witnesses and other evidence on the factual issues defined. His lone affidavit is self-serving, and cannot be considered as substantial evidence. As a general rule, one who pleads payment has the burden of proving it. Even where the petitioner alleged non-payment, the general rule is that the burden rests on the respondent to prove payment, rather than on the petitioner to prove non-payment.

(*Quisumbing, J., Keppel Bank Philippines, Inc., v. Philip Adao*, G.R. No. 158227, October 19, 2005)

**CRIMINAL LAW****Conspiracy**

Conspiracy need not be proven by direct evidence of prior agreement to commit the crime. Neither is it necessary to show all the conspirators actually hit and killed the victim. What has to be shown is that all the participants performed specific acts with such closeness and coordination as to unmistakably indicate a common purpose and design.

(*Azcuna, J., People of the Philippines v. Juanito P. Quirol and Mario P. Quirol*, G.R. No. 149259, October 20, 2005)

REMEDIAL LAW**Petitions for review under Rule 45**

In petitions for review or appeal under Rule 45 of the Rules of Court, the appellate tribunal is limited to the determination of whether the lower court committed reversible errors. The "errors" which are reviewable by this Court in a petition for review on *certiorari* from a decision of the Court of Appeals are only those allegedly committed by said court. It is the burden of the party seeking review of a decision of the Court of Appeals or other lower tribunals to distinctly set forth in her petition for review, not only the existence of questions of law fairly and logically arising therefrom, but also questions substantial enough to merit consideration, or show that there are special and important reasons warranting the review that she seeks. If these are not shown *prima facie* in her petition, this Court will be justified in summarily spurning the petition as lacking in merit.

Here, petitioner ignores the dismissal of her petition by the Court of Appeals on technical grounds and raises instead issues unrelated to reasons for the dismissal of her appeal by the Court of Appeals. Petitioner had not alleged any error in the Court of Appeals' resolution that seeks to correct, except for the ruling that the Civil Service Commission should be impleaded as respondent. Hence, these deficiencies are sufficient grounds to deny this petition outright.

(*Quisumbing, J., Grace A. Basmayor v. Loida B. Atencio*, G.R. No. 160573, October 19, 2005)

Writ of preliminary attachment; who can challenge the attachment writ and bond

A stranger to an action where property in which he claims to have a right is attached must resort to the remedies available under the Rules of Court. The only exception to this rule is when the sheriff mistakenly levies on properties in which the defendant has no interest. In such an event, a summary hearing is held upon application to determine if he has taken hold of property not belonging to the judgment debtor. In this case, however, the ownership of the vessels attached was never disputed. Petitioner must therefore follow the prescribed procedure for vindicating his claim on the vessels rather than attempt to erroneously short-circuit the rules.

REMEDIAL LAW (continued)

Section 14, Rule 57 of the 1997 Rules of Civil Procedure categorically provides specific remedies to one claiming a right to property attached in a suit in which the claimant is not a party.

(*Corona J., Bernardito A. Florido v. Shemberg Marketing Corporation*, G.R. No. 146400, October 25, 2005)

Evidence; conflicting testimonies of handwriting experts may be completely disregarded by the courts

Indeed, courts are not bound by expert testimonies. They may place whatever weight they choose upon such testimonies in accordance with the facts of the case. The relative weight and sufficiency of expert testimony is peculiarly within the province of the trial court to decide, considering the ability and character of the witness, his actions upon the witness stand, the weight and process of the reasoning by which he has supported his opinion, his possible bias in favor of the side for whom he testifies, and any other matters which serve to illuminate his statements. The opinion of an expert should be considered by the court in view of all the facts and circumstances of the case. The problem of the evaluation of expert testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of an abuse of that discretion.

(*Tinga, J., Milagros Ilao-Quianay and Sergio Ilao, as Joint Administrator of the Intestate Estate of Simplicio Ilao, and Ambrosia Ilao v. Rodolfo Mapile*, G.R. No. 154087, October 25, 2005)

Writ of Preliminary Injunction

We held in *Los Baños Rural Bank, Inc. v. Africa* that injunction is a preservative remedy aimed to protect the complainant's substantive rights and interests during the pendency of the principal action. A preliminary injunction is merely temporary. It is to be resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be remedied under any standard of compensation. Injunction, like other equitable remedies, should be issued only at the instance of a suitor who has sufficient interest in or title to the right or the property sought to be protected. It is proper only when the plaintiff appears to be

entitled to the relief demanded in the complaint. The existence of the right and the violation thereof must be alleged in the complaint and must constitute at least a *prima facie* showing of a right to the final relief. Thus, there are two (2) requisite conditions for the issuance of a preliminary injunction, namely, (1) the right to be protected exists *prima facie*, and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause an irreparable injustice.

Further, while a clear showing of the right is necessary, its existence need not be conclusively established. In fact, the evidence required to justify the issuance of a writ of preliminary injunction in the hearing thereon need not be conclusive or complete. The evidence need only be a "sampling" intended to give the court an idea of the justification for the preliminary injunction, pending judgment on the merits. Thus, to be entitled to the writ, respondents are only required to show that they have the ostensible right to the final relief prayed for in their complaint.

In the case at bar, we find that TRACKWORKS sufficiently established a right to be protected by a writ of preliminary injunction. The contract with the MRTC vested it the exclusive right to undertake advertising and promotional activities at the MRT 3 structure. The Court of Appeals therefore correctly ruled that what is involved here is not an indiscriminate posting and installation of commercial advertisements but one sanctioned by a contract. If not restrained, the dismantling of, and prohibition from, installing advertisements at the MRT 3 will cause irreparable injury to TRACKWORKS. This is especially so because TRACKWORKS is generally not entitled to recover damages resulting from acts of public officers done in their official capacity and in the honest belief that they have such power. Unless bad faith is clearly proven, TRACKWORKS will be left without recourse even if petitioner is later declared without authority to prohibit the posting of billboards and streamers at the MRT 3 structure. Indeed, prudence dictates that the *status quo* be preserved until the merits of the case can be heard fully.

(*Ynares-Santiago, J., Metropolitan Manila Development Authority v. Trackworks Rail Transit Advertising, Vending and Promotions, Inc.*, G.R. No. 167514, October 25, 2005)

SUPREME COURT

RESOLUTION of the COURT *EN BANC*, dated 11 October 2005, on A.M. No. 05-9-03-SC

RE: REQUEST FOR CLARIFICATION ON WHETHER DRUG COURTS SHOULD BE INCLUDED IN THE REGULAR RAFFLE

May special courts for drug cases be included in the raffle of civil and criminal cases other than drug related cases?

This is the subject of several queries received by the Office of the Court Administrator (OCA) specially from members of the Bench who preside over courts designated as special courts for drug cases.¹ The OCA observed, that conflicts of opinion on the matter are straining relations among some judges.

The OCA is of the opinion that Section 90 of R.A. No. 9165, otherwise known as "The Comprehensive Drugs Act of 2002," allows drug courts to take cognizance of non-drug cases.² However, the Court has a policy exempting the special courts from the raffle of non-drug related cases. On this basis, the OCA recommends that special courts for drug cases should continue to be exempted from the raffle of non-drug until further orders from this Court.³

The Court agrees with the interpretation and recommendation of the OCA.

Section 90 of R.A. No. 9165 provides:

SEC. 90. *Jurisdiction.* — The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region **to exclusively try and hear cases involving violations of this Act.** The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.

xxx xxx xxx

Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution. (*emphasis supplied*)

The phrase "to exclusively try and hear cases involving violations of this Act" means that, as a rule, courts designated as special courts for drug cases shall try and hear drug-related cases only, *i.e.*, cases involving violations of R.A. No. 9165, to the exclusion of other courts.

The very title of Article XI of R.A. No. 9165, the article where Section 90 is included, reads: "Jurisdiction Over Drug Cases." It provides for the forum where drug cases are to be filed, tried and resolved: Regional Trial Courts (RTCs) designated by this Court as special drug courts. The jurisdiction of the designated courts is exclusive of all other courts not so designated.

In our resolution in A.M. No. 00-8-01-SC on August 1, 2000, certain branches of the RTCs were designated as special courts for drug cases. They were tasked to hear and decide all criminal cases in their respective jurisdictions involving violations of R.A. No. 6435, otherwise known as the "Dangerous Drugs Act of 1972," as amended,⁴ regardless of the quantity of drugs involved. Among the guidelines issued to implement such designation was a directive to Executive Judges of the RTCs concerned to *exclude* the designated courts from the raffle of other cases subsequent to the assignment or transfer of drug cases to them.

Even after the passage of R.A. No. 9165, the designated courts under A.M. No. 00-8-01-SC remained as special courts for drug cases. The resolution is still in effect insofar as it is not inconsistent with the new law. The fact that A.M. No. 00-8-01-SC has not been abandoned is evident in resolutions subsequently issued by the Court adding or replacing drug courts in different jurisdictions.⁵ These resolutions expressly state that the guidelines set forth in A.M. No. 00-8-01-SC should be observed, if applicable.

The rationale behind the exclusion of drug courts from the raffle of cases other than drug cases is to expeditiously resolve criminal cases involving violations of R.A. No. 9165 (previously, of R.A. No. 6435). Otherwise, these courts may be sidelined from hearing drug cases by the assignment of non-drug cases to them and the purpose of their designation as special courts would be negated. The faithful observance of the stringent time frame imposed on drug courts for deciding drug related cases and terminating proceedings calls for the continued implementation of the policy enunciated in A.M. No. 00-8-01-SC.

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¹ These specially designated courts for drug cases are also known as "drug courts."

² August 23, 2005 Memorandum of the OCA.

³ *Id.*

⁴ This law was repealed by R.A. No. 9165.

⁵ See June 17, 2003 Resolution in AM No. 03-4-23S-RTC:

Re: Designation of Additional Special Courts for Drug Cases and Family Courts in Makati City.

A.M. NO. 05-8-26-SC (continued)

The Court is mindful of a relevant provision in the 2002 Revised Manual for Clerks of Court in connection with the assignment and raffling of cases. It mandates Executive Judges of RTCs to exclude designated special courts from the raffle of other cases, criminal and civil, whenever in their judgment the caseload of these courts prevents them from conducting a daily trial of drug cases. However, it should not be interpreted as a blanket, albeit implied, authority for Executive Judges to include drug courts in the raffle of non-drug related cases. Should they deem that the load of drug courts can accommodate non-drug related cases, or if it becomes necessary to include drug courts in the regular raffle to decongest the caseload of other branches, Executive Judges concerned should first make the corresponding recommendation to this Court.

WHEREFORE, Executive Judges and presiding judges of special courts for drug cases shall hereby observe the following guidelines:

1. Pursuant to Section 90 of R.A. No. 9165, only courts designated by this Court as special courts for drug cases can take cognizance of violations of R.A. No. 9165.

2. Drug courts shall strictly adhere to the periods imposed on them under Section 90 of R.A. No. 9165. Trial of all drug cases assigned to them shall be terminated within sixty (60) days from the date of filing of the information. Decisions on these cases shall be rendered within fifteen(15) days from the date of submission of the case for resolution.

3. While special courts for drug cases are not prohibited from hearing non-drug related cases, Executive Judges shall continue to exempt them from the regular raffle, *i.e.*, from the raffle of cases which do not involve violations of R.A. No. 9165, until further orders from this Court.

4. If, in the opinion of Executive Judges, the caseload of certain drug courts allows their inclusion in the regular raffle without adversely affecting their ability to expeditiously resolve the drug cases assigned to them and their inclusion in the regular raffle becomes necessary to decongest the caseload of other branches, the concerned Executive Judges shall recommend to this Court the inclusion of drug courts in their jurisdiction in the regular raffle. The concerned drug courts shall remain exempt from the regular raffle until the recommendation is approved.

5. The guidelines provided under A.M. No. 00-8-01-SC shall continue to remain in force and effect insofar as they are not inconsistent with this resolution.

Let copies of this resolution be furnished the Office of the Court Administrator, the Office of the Clerk of Court of the Supreme Court, the Judicial and Bar Council, the Philippine Judicial Academy, the Secretary of Justice, the Office of the Solicitor General, the Presidents of the Philippine Judges Association, Philippine Trial Judges League, Inc. and Metro and City Judges Association of the Philippines, the Integrated Bar of the Philippines and other entities concerned.

Very truly yours,

(Sgd.) MA. LUISA D. VILLARAMA
Clerk of Court



RESOLUTION of the COURT *EN BANC*, dated 15 November 2005, on A.M. No. 05-11-04-SC

RE: RULE OF PROCEDURE IN CASES OF CIVIL FORFEITURE, ASSET PRESERVATION, AND FREEZING OF MONETARY INSTRUMENT, PROPERTY, OR PROCEEDS REPRESENTING, INVOLVING, OR RELATING TO AN UNLAWFUL ACTIVITY OR MONEY LAUNDERING OFFENSE UNDER REPUBLIC ACT NO. 9160, AS AMENDED

Acting on the letter of the Chairman of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the Proposed Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under Republic Act No. 9160, as Amended, the Court Resolved to APPROVE the same.

The Rule shall take effect on the fifteenth of December 2005 following its publication in a newspaper of general circulation in the Philippines not later than 20 November 2005.

15 November 2005.

DAVIDE, JR., CJ, PUNO, PANGANIBAN, QUISUMBING, YNARES-SANTIAGO, CARPIO, AUSTRIA-MARTINEZ, CORONA, CARPIO-MORALES, CALLEJO, SR., AZCUNA, TINGA, GARCIA, JJ. *concur.*

SANDOVAL-GUTIERREZ, and CHICO-NAZARIO, JJ., *on leave.*

A.M. NO. 05-11-04-SC (continued)

RULE OF PROCEDURE IN CASES OF CIVIL FORFEITURE, ASSET PRESERVATION, AND FREEZING OF MONETARY INSTRUMENT, PROPERTY, OR PROCEEDS REPRESENTING, INVOLVING, OR RELATING TO AN UNLAWFUL ACTIVITY OR MONEY LAUNDERING OFFENSE UNDER REPUBLIC ACT NO. 9160, AS AMENDED

**TITLE I
APPLICABILITY**

SECTION 1. *Applicability.*-The Rule shall govern all proceedings for civil forfeiture, asset preservation and freezing of monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or a money laundering offense under Republic Act No. 9160, as amended.

The Revised Rules of Court shall apply suppletorily when not inconsistent with the provisions of this special Rule.

**TITLE II
CIVIL FORFEITURE IN THE
REGIONAL TRIAL COURT**

SEC. 2. *Party to institute proceedings.*-The Republic of the Philippines, through the Anti-Money Laundering Council, represented by the Office of the Solicitor General, may institute actions for civil forfeiture and all other remedial proceedings in favor of the State of any monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or a money laundering offense.

SEC. 3. *Venue of cases cognizable by the regional trial court.*-A petition for civil forfeiture shall be filed in any regional trial court of the judicial region where the monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or to a money laundering offense are located; *provided, however,* that where all or any portion of the monetary instrument, property, or proceeds is located outside the Philippines, the petition may be filed in the regional trial court in Manila or of the judicial region where any portion of the monetary instrument, property, or proceeds is located, at the option of the petitioner.

SEC. 4. *Contents of the petition for civil forfeiture.*-The petition for civil forfeiture shall be verified and contain the following allegations:

- (a) The name and address of the respondent;
- (b) A description with reasonable particularity of the monetary instrument, property, or proceeds, and their location; and
- (c) The acts or omissions prohibited by and the specific provisions of the Anti-Money

Laundering Act, as amended, which are alleged to be the grounds relied upon for the forfeiture of the monetary instrument, property, or proceeds; and the reliefs prayed for.

SEC. 5. *Direct filing; action on the petition.*-The petition shall be filed directly with the executive judge of the regional trial court or, in his absence, the vice-executive judge or, in their absence, any judge of the regional trial court of the same station. He shall act on the petition within twenty-four (24) hours after its filing.

SEC. 6. *Separate logbook.*-The executive judge of the regional trial court shall enter the petition in a logbook specifically designed for the purpose and assign it a docket number. He shall designate a member of his staff to keep the logbook under his custody and responsibility.

SEC. 7. *Confidentiality; prohibited disclosure.*-The logbook and the entries therein shall be kept strictly confidential and maintained under the responsibility of the executive judge. No person, including court personnel, shall disclose, divulge or communicate to anyone directly or indirectly, in any manner or by any means, the fact of the filing of the petition for an asset preservation order, its contents and its entry in the logbook except to those authorized by the court. Violation shall constitute contempt of court.

SEC. 8. *Notice and manner of service.*-

(a) The respondent shall be given notice of the petition in the same manner as service of summons under Rule 14 of the Rules of Court and the following rules:

- (1) The notice shall be served on respondent personally, or by any other means prescribed in Rule 14 of the Rules of Court;
- (2) The notice shall contain: (i) the title of the case; (ii) the docket number; (iii) the cause of action; and (iv) the relief prayed for; and
- (3) The notice shall likewise contain a *proviso* that, if no comment or opposition is filed within the reglementary period, the court shall hear the case *ex parte* and render such judgment as may be warranted by the facts alleged in the petition and its supporting evidence.

(b) Where the respondent is designated as an unknown owner or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication of the notice of the petition in a

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newspaper of general circulation in such places and for such time as the court may order. In the event that the cost of publication exceeds the value or amount of the property to be forfeited by ten percent, publication shall not be required.

SEC. 9. *Comment or opposition.*-The respondent shall file a verified comment or opposition, not a motion to dismiss the petition, within fifteen days from service of notice or within thirty days from the publication in case service of notice was by publication.

The comment or opposition shall (a) state whether respondent admits the allegations of the petition; (b) specify such inaccuracies or falsities in petitioner's statement of facts; and (c) state clearly and concisely the respondent's defense in law and the specific and pertinent provisions of the law and their applicability to respondent.

SEC. 10. *Effect of failure to file comment or opposition.*-If no comment or opposition is filed within the reglementary period, the court shall hear the case *ex parte* and render such judgment as may be warranted by the facts alleged in the petition and its supporting evidence.

TITLE III

ASSET PRESERVATION ORDER: *EX PARTE* ISSUANCE, SUMMARY HEARING, SERVICE, RETURN AND GROUNDS FOR DISCHARGE RAISED IN MOTION, COMMENT OR OPPOSITION

SEC. 11. *Ex parte issuance of provisional asset preservation order.*-Where the executive judge of the regional trial court or, in his absence, the vice-executive judge or, in their absence, any judge of the regional trial court available in the same station, has determined that probable cause exists on the basis of allegations of a verified petition sufficient in form and substance, with a prayer for the issuance of an asset preservation order, that the monetary instrument, property, or proceeds subject of the petition are in any way related to an unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194, the court may issue *ex parte* a provisional asset preservation order effective immediately forbidding any transaction, withdrawal, deposit, transfer, removal, conversion, concealment or other disposition of the subject monetary instrument, property, or proceeds. Such order shall be effective for a period of twenty (20) days from the respective dates of service to respondent or any person acting in his behalf, and upon each covered institution or government agency in accordance with Section 14 of this Rule.

SEC. 12. *Summary hearing.*-The court shall schedule a hearing at a date and time within the twenty-day

period at which the respondent may for good cause show why the provisional asset preservation order should be lifted. The court shall determine within the same period whether the provisional asset preservation order should be modified or lifted or an asset preservation order should issue and act accordingly.

SEC. 13. *Issuance, form and content of asset preservation order.*-The asset preservation order issued under Section 11 or 12 shall:

- (a) issue in the name of the Republic of the Philippines represented by the Anti-Money Laundering Council;
- (b) state the name of the court, the case number and title, and the subject order; and
- (c) require the sheriff or other proper officer to whom it is directed to serve a copy of the order upon the respondent or any person acting in his behalf and upon the covered institution or government agency.

SEC. 14. *Service and enforcement of asset preservation order.*-The asset preservation order shall be served personally by the sheriff or other proper officer designated by the court in the manner provided in Sections 8, 19 and 20. If personal service is not practicable, the order shall be served in any other manner which the court may deem expedient.

When authorized by the court, service may be effected upon the respondent or any person acting in his behalf and upon the treasurer or other responsible officer of the covered institution or the head of the covered government agency, by facsimile transmission (fax) or electronic mail (e-mail). In such cases, the date of transmission shall be deemed to be *prima facie* the date of service.

The asset preservation order shall be enforceable anywhere in the Philippines.

SEC. 15. *Duties of covered institution and government agencies upon receipt of asset preservation order.*-Upon receipt of notice of an asset preservation order, the covered institution or government agency shall immediately preserve the subject monetary instrument, property, or proceeds in accordance with the order of the court and shall forthwith furnish a copy of the notice of the asset preservation order upon the owner or holder of the subject monetary instrument, property, or proceeds.

SEC. 16. *Returns of the sheriff, covered institution or government agency.*-Within twenty-four (24) hours from receipt of an asset preservation order, the sheriff who served the order and the covered institution or

A.M. NO. 05-11-04-SC (continued)

government agency shall submit by personal delivery to the regional trial court which issued the order a detailed written return specifying all the relevant information which shall include the following:

- (a) For covered institutions: The account numbers for financial accounts or description of the monetary instrument, property, or proceeds involved;
- (b) For covered government agencies:
 - (1) Certificates of title numbers of registered real property and the volumes and pages of the registration books of the Register of Deeds where the same are registered;
 - (2) Registration in the Primary Entry Book and corresponding Registration Book in the Register of Deeds for unregistered real property;
 - (3) Registration with the Register of Deeds of the enabling or master deed for a condominium project, declaration of restrictions relating to such condominium project, certificate of title conveying a condominium and notice of assessment upon any condominium;
 - (4) Tax declarations for improvements built on land owned by a different party, together with the annotation of the contract of lease on the title of the owner of the land as registered in the Register of Deeds;
 - (5) Certificates of registration for motor vehicles and heavy equipment indicating the engine numbers, chassis numbers and plate numbers;
 - (6) Certificates of numbers for seacraft;
 - (7) Registration certificates for aircraft; or
 - (8) Commercial invoices or notarial identification for personal property capable of manual delivery;

whichever are applicable;

- (c) The names of the account holders, personal property owners or possessors, or real property owners or occupants;
- (d) The peso value of the monetary instrument, property, or proceeds as of the time the assets were ordered seized and preserved;
- (e) All relevant information as to the nature of the monetary instrument, property, or

proceeds; and

- (f) The date and time when the asset preservation order was served.

SEC. 17. *Grounds for discharge of asset preservation order.-*

The respondent or the party, whose personal or real property has been preserved pursuant to an asset preservation order, may raise in a motion or in the comment or opposition the grounds for its discharge.

For this purpose, the motion, comment or opposition shall:

- (a) Identify the specific property sought to be discharged;
- (b) State the respondent's interest in such property; and
- (c) Be subscribed under oath.

The following grounds for the discharge of the asset preservation order may be raised:

- (a) The order was improperly or irregularly issued or enforced;
- (b) Any of the material allegations in the petition, or any of the contents of any attachment to the petition thereto, or its verification, is false; and
- (c) The specific personal or real property ordered preserved is not in any manner connected with the alleged unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194.

No counterbond to discharge the asset preservation order shall be allowed except for compelling reasons.

TITLE IV

ASSETS SUBJECT TO PRESERVATION ORDER, GUIDELINES IN SERVING ASSET PRESERVATION ORDER, AND RECEIVERSHIP

SEC. 18. *Assets subject to preservation order.-*

(a) *Monetary instrument.-*The term "monetary instrument" includes:

- (1) Coins or currency of legal tender of the Philippines or of any other country;
- (2) Credit instruments, including bank deposits, financial interest, royalties, commissions and other intangible personal property;
- (3) Drafts, checks and notes;

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- (4) Stocks or shares, or an interest therein, of any corporation or company;
 - (5) An interest in any corporation, partnership, joint venture or any other similar association or organization for profit or otherwise;
 - (6) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments;
 - (7) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and
 - (8) Other similar instruments where title thereto passes to another by assignment, endorsement or delivery;
- (b) *Property*.—The term “property” refers to:
- (1) Personal property, including proceeds derived therefrom, traceable to any unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194, includes but is not limited to:
 - (i) Cash;
 - (ii) Jewelry, precious metals, and other similar items;
 - (iii) Works of art such as paintings, sculptures, antiques, treasures and other similar precious objects;
 - (iv) Perishable goods; and
 - (v) Vehicles, vessels or aircraft, or any other similar conveyance.
 - (2) Personal property, used as instrumentalities in the commission of any unlawful activity defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194, such as:
 - (i) Computers, servers and other electronic information and communication systems; and
 - (ii) Any conveyance, including any vehicle, vessel and aircraft.
 - (3) Real estate, improvements constructed or crops growing thereon, or any interest therein, standing upon the record of the registry of deeds of the province in the name of the party against whom the asset

preservation order is issued, or not appearing at all upon such records, or belonging to the party against whom the asset preservation order is issued and held by any other person, or standing on the records of the registry of deeds in the name of any other person, which are:

- (i) Derived from, or traceable to, any unlawful activity defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194; or
- (ii) Used as an instrumentality in the commission of any unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194.

(c) *Proceeds*.—The term “proceeds” refers to an amount derived or realized from an unlawful activity, which includes, but is not limited to:

- (1) All material results, profits, effects and any amount realized from any unlawful activity;
- (2) All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and
- (3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations and maintenance of any unlawful activity.

SEC. 19. *Guidelines in serving asset preservation order on perishable property*.—When perishable property is preserved, and the same is liable to deteriorate in value and price by reason of delay in its disposition or is disproportionately expensive to keep, the following guidelines are to be strictly followed:

- (a) The petitioner may file a verified motion praying for the sale at public auction of said perishable property setting forth all the facts showing such sale to be necessary;
- (b) If the court grants the motion, the sale shall be conducted in the same manner as property sold under execution as provided in the Rules of Court:
 - (1) Written notice must be given, before the sale, by posting of the time and place of the sale in three public places, preferably in conspicuous areas of the municipal or city hall, post office and public market in the municipality or city where the perishable property is

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located and where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property; and

- (2) The proceeds shall be deposited with the Clerk of Court to be disposed of according to the final judgment of the court.

SEC. 20. *Guidelines in serving asset preservation order on real estate property.*-When real estate property is ordered preserved, the following guidelines are to be strictly followed:

- (a) Real property shall not be physically seized before a final order of forfeiture;
- (b) The owners, if known, and occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action;
- (c) Notice of the asset preservation order shall be served in accordance with Section 14 of this Rule on the owners, if known, and occupants of the real property along with a copy of the petition; and
- (d) The sheriff shall also post in a conspicuous place on the real property a copy of the asset preservation order.

SEC. 21. *Designation of receiver.*-Upon verified motion, the court may order any person in control or possession of the monetary instrument, property, or proceeds to turn over the same to a receiver appointed by the court under such terms and conditions as the court may deem proper in the following instances:

- (a) When it appears that the party applying for the appointment of a receiver has an interest in the property or fund and that such property or fund is in danger of being lost, removed or materially injured;
- (b) When it appears that the property is in danger of being wasted or dissipated or materially injured;
- (c) After judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment or to aid execution when the execution has been returned unsatisfied or the judgment obligor refuses to apply his property in satisfaction of the judgment, or otherwise to carry the judgment into effect; and
- (d) Whenever in other cases it appears that the

appointment of a receiver is the most convenient and feasible means of administering or disposing of the property in litigation.

TITLE V PRE-TRIAL

SEC. 22. *Pre-trial.*-

(a) *Pre-trial mandatory.*-Pre-trial is mandatory. If a comment or an opposition is filed, the court shall forthwith send notice of pre-trial conference to the parties.

(b) *Purpose.*-The court shall consider:

- (1) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
- (2) The simplification of the issues;
- (3) The necessity or desirability of amendments to the pleadings;
- (4) The limitation of the number of witnesses;
- (5) The advisability of a preliminary reference of issues to a commissioner;
- (6) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist; and
- (7) Such other matters as may aid in the prompt disposition of the action.

(c) *Notice of pre-trial conference.*-The notice of pre-trial conference shall contain:

- (1) The date of the pre-trial conference which shall be set within thirty(30) days from the date of receipt by the court of the comment or opposition; and
- (2) An order directing the parties to file and serve their respective pre-trial briefs. The parties shall ensure the receipt of the pre-trial brief by the adverse party at least three (3) days before the date of pre-trial.

(d) *Separate service of notice; appearances.*-The notice shall be served separately on the parties and their respective counsel, both of whom shall appear personally at the pre-trial conference. It shall be the duty of the counsel to inform his client of the pre-trial conference. The failure of a party to appear may be excused only if a valid cause is shown therefor or if a

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representative shall appear in his behalf, fully authorized in writing to enter into stipulations or admissions of facts and of documents.

SEC. 23. *Contents of the pre-trial brief.*-The pre-trial brief shall contain the following:

- (a) A full and complete statement of the respective claims of the parties with a citation of the applicable laws and authorities;
- (b) A statement of the admitted facts and proposed stipulations of facts, as well as the disputed factual and legal issues;
- (c) Copies of the documents or exhibits to be presented, stating their purpose;
- (d) The names and number of witnesses, and the substance of their respective testimony; and
- (e) Such other matters as may aid in the prompt disposition of the case.

Failure of a party to file a pre-trial brief or to comply with its required contents shall have the same effect as failure to appear at the pre-trial conference.

SEC. 24. *Effect of failure to appear at the pre-trial conference.*-Failure of the petitioner or counsel to appear at the pre-trial conference shall be cause for dismissal of the petition. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the respondent or counsel shall be cause to allow the petitioner to present its evidence *ex parte* and the court to render judgment on the basis thereof.

SEC. 25. *Pre-trial order.*-

(a) Upon termination of the pre-trial conference, the court shall issue a pre-trial order which shall recite in detail the matters taken up, the actions thereon, the amendments allowed on the pleadings, the agreements or admissions made by the parties on any of the matters considered, including any provisional order that may be necessary or agreed to by the parties.

(b) In case the court determines the need for further hearing, the pre-trial order shall contain a recital of the following:

- (1) Facts admitted or undisputed;
- (2) Facts disputed;
- (3) Factual and legal issues to be resolved;
- (4) Evidence, including objects and documents, that have been marked and are to be presented;

(5) The witnesses to be presented and the substance of their respective testimony;

(6) Schedule of the presentation of evidence by both parties which shall be as expeditious as possible; and

(7) Such other matters as may aid in the prompt disposition of the case.

(c) The parties shall not be allowed to raise issues or present witnesses and evidence other than those stated in the pre-trial order. The order shall control the trial of the case, unless modified by the court to prevent manifest injustice.

(d) The parties shall have ten (10) days from receipt of the pre-trial order to propose corrections or modifications.

SEC. 26. *Prohibited procedures.*-The rules on amicable settlement, mediation and other alternative mode of dispute resolution shall not apply.

TITLE VI

TRIAL, JUDGMENT AND REVIEW

SEC. 27. *No prior charge, pendency or conviction necessary.*-No prior criminal charge, pendency of or conviction for an unlawful activity or money laundering offense is necessary for the commencement or the resolution of a petition for civil forfeiture.

SEC. 28. *Precedence of proceedings.*-Any criminal case relating to an unlawful activity shall be given precedence over the prosecution of any offense or violation under Republic Act No. 9160, as amended, without prejudice to the filing of a separate petition for civil forfeiture or the issuance of an asset preservation order or a freeze order. Such civil action shall proceed independently of the criminal prosecution.

SEC. 29. *Trial.*-The trial shall proceed in accordance with the applicable provisions of Rule 30 of the Rules of Court.

SEC. 30. *Business records as exception to the hearsay rule.*-A memorandum, report, record or data compilation of acts, events, conditions, opinions or diagnoses, made by electronic, optical or other similar means at or near the time of or from transmission or supply of information by a person with knowledge, as a regular practice, and kept in the normal course of conduct of a business activity, as shown by the testimony of the custodian or other qualified witness, is excepted from the rule on hearsay evidence.

SEC. 31. *Factors to determine where lies preponderance of evidence.*-In rendering judgment, the court may consider the following factors to determine where lies

A.M. NO. 05-11-04-SC (continued)

the preponderance of evidence:

(a) That the monetary instrument, property, or proceeds are represented, involved, or related to an unlawful activity or a money laundering offense:

- (1) If the value or amount involved is not commensurate with the business, financial or earning capacity of the person;
- (2) If any transaction indicates a clear deviation from the profile or previous transactions of the person;
- (3) If a person opens, maintains or controls an account with a covered institution not in his own name or registered business name unless authorized under existing law;
- (4) If a person has structured transactions in order to avoid being the subject of reporting requirements under Republic Act No. 9160, as amended; or
- (5) If any transaction exists that has no apparent underlying legal or trade obligation, purpose or economic justification;

or

(b) That the monetary instrument, property, or proceeds, the sources of which originated from or are materially linked to monetary instruments, properties, or proceeds used in the commission of an unlawful activity or money laundering offense, are related to the said unlawful activity or money laundering offense.

SEC. 32. *Judgment.*-The court shall render judgment within thirty (30) days from submission of the case for resolution. It shall grant the petition if there is preponderance of evidence in favor of the petitioner and declare the monetary instrument, property, or proceeds forfeited to the State or, in appropriate cases, order the respondent to pay an amount equal to the value of the monetary instrument or property and adjudge such other reliefs as may be warranted.

SEC. 33. *Service and enforcement of judgment.*-A certified copy of the judgment issued shall be served upon the parties or persons acting in their behalf and upon the covered institution or government agency as the court may direct.

SEC. 34. *Appeal.*-

(a) *Notice and period of appeal.*-An aggrieved party

may appeal the judgment to the Court of Appeals by filing within fifteen days from its receipt a notice of appeal with the court which rendered the judgment and serving a copy upon the adverse party.

(b) *Procedure on appeal.*-The parties shall file, in lieu of briefs, their respective memoranda within a non-extendible period of thirty days from receipt of the notice issued by the clerk of court to the parties that all the evidence, oral and documentary, are attached to the record.

The failure of the appellant to file his memorandum within the period therefor may be a ground for dismissal of the appeal.

TITLE VII

CLAIMS AGAINST FORFEITED ASSETS

SEC. 35. *Notice to file claims.*-Where the court has issued an order of forfeiture of the monetary instrument or property in a civil forfeiture petition for any money laundering offense defined under Section 4 of Republic Act No. 9160, as amended, any person who has not been impleaded nor intervened claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the order of forfeiture within fifteen days from the date of finality of the order of forfeiture, in default of which the said order shall be executory and bar all other claims.

SEC. 36. *How to file a claim; contents.*-In his petition, the claimant must state the complete facts, attach the affidavits of his witnesses, supporting documents and other evidence, and personally verify the claim. The claimant shall file the petition with the clerk of court, pay the docket and other lawful fees and submit proof of service of a copy of the claim upon the petitioner.

SEC. 37. *Effect of non-compliance with requirements.*-The court may dismiss the claim outright if it is not sufficient in form and substance and is manifestly filed for delay. Otherwise, it shall issue a notice to the petitioner to file its comment on the claim.

SEC. 38. *Notice to file comment.*-Within fifteen (15) days after notice, petitioner shall file a comment admitting or denying the claim specifically, and setting forth the substance of the matters which are relied upon to support the admission or denial. If the petitioner has no knowledge sufficient to enable it to admit or deny specifically, it shall state such want of knowledge. The petitioner in its comment shall allege

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in offset any fees, charges, taxes and expenses due to it. A copy of the comment shall be served on the claimant.

SEC. 39. *Disposition of admitted or uncontested claim.*-The court may, without hearing, issue an appropriate order approving any claim admitted or not contested by the petitioner.

SEC. 40. *Hearing on contested claim.*-Upon the filing of a comment contesting the claim, the court shall set the claim for hearing within thirty (30) days with notice to all parties.

SEC. 41. *Final order.*-The court shall issue a final order on the contested claim within thirty (30) days from submission.

SEC. 42. *Appeal.*-An appeal to the Court of Appeals may be taken in the same manner as prescribed in Section 34 of this Rule.

TITLE VIII PETITIONS FOR FREEZE ORDER IN THE COURT OF APPEALS

SEC. 43. *Applicability.*-This Rule shall apply to petitions for freeze order in the Court of Appeals. The 2002 Internal Rules of the Court of Appeals, as amended, shall apply suppletorily in all other aspects.

SEC. 44. *Party to file petition.*-The Republic of the Philippines, through the Anti-Money Laundering Council, represented by the Office of the Solicitor General, may file *ex parte* with the Court of Appeals a verified petition for a freeze order on any monetary instrument, property or proceeds relating to or involving an unlawful activity as defined under Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194.

SEC. 45. *Form of application.*-An application for a freeze order shall be in the form of a verified petition accompanied by a sworn certification against forum shopping personally signed by an authorized official of the Anti-Money Laundering Council and as provided in the fourth paragraph of Section 3, Rule 46, Rules of Court.

SEC. 46. *Contents of the petition.*-The petition shall contain the following allegations:

- (a) The name and address of the respondent;
- (b) A specific description with particularity of the monetary instrument, property or proceeds, their location, the name of the owner, holder, lienholder or possessor, if known;
- (c) The grounds relied upon for the issuance of a freeze order; and

- (d) The supporting evidence showing that the subject monetary instrument, property, or proceeds are in any way related to or involved in an unlawful activity as defined under Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194.

The petition shall be filed in seven clearly legible copies and shall be accompanied by clearly legible copies of supporting documents duly subscribed under oath.

SEC. 47. *Direct filing and docketing.*-To ensure the confidentiality of an application for a freeze order, the petition shall be filed directly with the Presiding Justice in Manila or the Executive Justices in Cebu City or Cagayan de Oro City, who shall enter the same in a logbook specifically designed for the purpose, and assigned a docket number. In the absence of any of the aforementioned justices, the petition may be filed with the next available senior justice, who shall act on the petition as provided in this Rule.

SEC. 48. *Separate logbook.*-There shall be a logbook under the custody and responsibility of a designated member of the staff of the Presiding Justice or Executive Justices. The petition shall be docketed in the logbook and the name of the assigned justice entered thereon.

SEC. 49. *Confidentiality; prohibited disclosure.*-The logbook and the entries therein shall be kept strictly confidential and maintained under the responsibility of the Presiding Justice or the Executive Justices, as the case may be. No person, including Court personnel, shall disclose, divulge or communicate to anyone directly or indirectly, in any manner or by any means, the fact of the filing of the petition for freeze order, its contents and its entry in the logbook except to those authorized by the Court. Violation shall constitute contempt of court.

SEC. 50. *Raffle.*-The petition shall be raffled immediately on the same day it is filed. The raffle shall be personally conducted by the Presiding Justice or the Executive Justices in the presence of the Chairmen of the second and third divisions in Manila, Cebu City or Cagayan de Oro City. The petition shall be raffled to a specific justice actually present in the Court from among the members of the first three divisions in Manila, Cebu City or Cagayan De Oro City, for study and report.

SEC. 51. *Action by the Court of Appeals.*-All members of the Division of the Court to which the assigned justice belongs shall act on the petition within twenty-four (24) hours after its filing. However, if one member of the Division is not available, the assigned justice

and the other justice present shall act on the petition. If only the assigned justice is present, he shall act alone. The action of the two (2) justices or of the assigned justice alone, as the case may be, shall be forthwith promulgated and thereafter submitted on the next working day to the absent member or members of the Division for ratification, modification or recall.

If the Court is satisfied from the verified allegations of the petition that there exists probable cause that the monetary instrument, property, or proceeds are in any way related to or involved in any unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194, it shall issue *ex parte* a freeze order as hereinafter provided.

If the Court finds no substantial merit in the petition, it shall dismiss the petition outright, stating the specific reasons for such dismissal.

When the unanimous vote of the three (3) justices of the Division cannot be obtained, the Presiding Justice or the Executive Justice shall designate two (2) justices by raffle from among the other justices of the first three (3) divisions to sit temporarily with them forming a special division of five justices. The concurrence of a majority of such special division shall be required for the pronouncement of a judgment or resolution.

SEC. 52. *Issuance, form and contents of the freeze order.*-The freeze order shall:

- (a) Issue in the name of the Republic of the Philippines represented by the Anti-Money Laundering Council;
- (b) Describe with particularity the monetary instrument, property or proceeds frozen, as well as the names of their owner or owners; and
- (c) Direct the person or covered institution to immediately freeze the subject monetary instrument, property or proceeds or its related web of accounts.

SEC. 53. *Freeze order.*-

(a) *Effectivity; post-issuance hearing.*-The freeze order shall be effective immediately for a period of twenty (20) days. Within the twenty-day period, the court shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity as hereinafter provided.

(b) *Extension.*-On motion of the petitioner filed before the expiration of twenty (20) days from

issuance of a freeze order, the court may for good cause extend its effectivity for a period not exceeding six (6) months.

SEC. 54. *Notice of freeze order.*-The court shall order that notice of the freeze order be served personally, in the same manner provided for the service of the asset preservation order in Section 14 of this Rule, upon the respondent or any person acting in his behalf and such covered institution or government agency. The court shall notify also such party in interest as may have appeared before the court.

SEC. 55. *Duty of respondent, covered institution or government agency upon receipt of freeze order.*-Upon receipt of a copy of the freeze order, the respondent, covered institution or government agency shall immediately desist from and not allow any transaction, withdrawal, deposit, transfer, removal, conversion, other movement or concealment of the account representing, involving or relating to the subject monetary instrument, property, proceeds or its related web of accounts.

SEC. 56. *Consolidation with the pending civil forfeiture proceedings.*-After the post-issuance hearing required in Section 53, the Court shall forthwith remand the case and transmit the records to the regional trial court for consolidation with the pending civil forfeiture proceeding.

SEC. 57. *Appeal.*-Any party aggrieved by the decision or ruling of the court may appeal to the Supreme Court by petition for review on *certiorari* under Rule 45 of the Rules of Court. The appeal shall not stay the enforcement of the subject decision or final order unless the Supreme Court directs otherwise.

TITLE IX COMMON PROVISIONS

SEC. 58. *Costs and fees.*-Petitioner is exempted from the payment of costs and other lawful fees prescribed in the Rules of Court.

SEC. 59. *Transitory provision.*-This Rule shall apply to all pending civil forfeiture cases or petitions for freeze order.

SEC. 60. *Effectivity.*-This Rule shall take effect on the fifteenth of December 2005, following its publication in a newspaper of general circulation in the Philippines not later than 20 November 2005.



SUPREME COURT

ADMINISTRATIVE CIRCULAR NO. 68-2005

AUTHORIZING EXECUTIVE JUDGES OF FIRST AND SECOND LEVEL COURTS TO APPROVE REQUESTS OF THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY TO TRANSFER OR CHANGE PLACE OF DETENTION OF HIGH-RISK OR HIGH-PROFILE DETAINEES

WHEREAS, Sections 61 and 63 of Republic Act No. 6975 entitled *An Act Establishing the Philippine National Police Under a Reorganized Department of Interior and Local Government, and for Other Purposes*, provide that the Bureau of Jail Management and Penology (BJMP) which exercises supervision and control over all city and municipal jails, shall be under the supervision of the Department of Interior and Local Government (DILG);

WHEREAS, the BJMP is mandated to establish and maintain a secured, clean, adequately equipped and sanitary detention facility for the custody and safekeeping of city and municipal prisoners, any fugitive from justice, or person detained awaiting investigation, trial, or transfer to the national penitentiary;

WHEREAS, pursuant to and by virtue of its power of supervision and custody, the BJMP has the authority to direct the transfer or change of place of detention of detainees;

WHEREAS, the BJMP has issued various circulars directing assistant regional directors and jail wardens to work out for the transfer of high-risk or high-profile detainees should it be deemed that the jails in which they are currently detained are not well secured against planned attempts for their rescue by fellow gang members, relatives or any other person;

WHEREAS, the BJMP in its Memorandum dated 12 September 2003, has directed that no transfer of inmates to another jail shall be effected without a court order or approval;

WHEREAS, the court order or approval of such transfer is administrative in nature and falls within the duty and function of the Executive Judge to visit and inspect local jails and the detained prisoners within the area of his or her administrative supervision.

NOW, THEREFORE, to ensure speedy and efficient administrative action by the courts on requests of the BJMP through the City or Municipal Jail wardens relative to the transfer of high-risk or high-profile detainees to better secured jails, the Supreme Court hereby directs that:

1. All requests for such transfer shall be submitted for appropriate action to the Executive Judge who has administrative supervision over the court in the place where the local jail in which the prisoner is currently detained; and
2. The Executive Judge shall act forthwith on the requests, with notice to the Presiding Judge of the court before which the case of the detained prisoner is pending.

This Circular shall take effect immediately.

Issued this 27th day of October 2005.

(Sgd.) HILARIO G. DAVIDE, JR.
Chief Justice

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OCA CIRCULAR NO. 111-2005

divisions of the Court with copies of this Memorandum Circular for the information and guidance of all concerned.

This Memorandum Circular shall take effect upon its issuance.

Issued this 25th day of June 2003.

(Sgd.) HILARIO G. DAVIDE, JR.
Chief Justice"

The provision of the above Memorandum Circular shall likewise apply to all trial courts to serve as a guide for similar requests of students and as reflective of the policy of the Court on the matter.

For the information and guidance of all concerned.

25 October 2005.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

OCA CIRCULAR NO. 112-2005

5. The guidelines provided under AM. No. 00-08-01-SC shall continue to remain in force and effect insofar as they are not inconsistent with this resolution.

For the information and guidance of all concerned.

25 October 2005.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

OFFICE OF THE COURT ADMINISTRATOR

OCA CIRCULAR NO. 101-2005

TO: ALL JUDGES OF FAMILY COURTS

SUBJECT: COMMITMENT OF JUVENILES IN
CONFLICT WITH THE LAW

The attention of this Office has been called to the continued practice of judges of immediately committing youthful offenders to provincial, city and municipal jails despite the presence of Department of Social Welfare and Development (DSWD) offices, youth detention centers or local rehabilitation centers within the jurisdiction of the courts. Judges must take into consideration that jail facilities, at present, are severely congested and are beset with manpower, logistical and budgetary constraints.

Judges are reminded that the Court, in seeking to promote the best interests of the child in conformity with Philippine laws and the United Nation's Convention on the Rights of the Child, passed the Resolution dated February 28, 2002 in A.M. No. 02-1-18-SC, approving the Rule on Juveniles in Conflict with the Law.

Quoted hereunder is the pertinent provision of the Rule relative to the commitment of youthful offenders, to wit:

"Sec. 18. Care of Juveniles in Conflict with the Law.

- The juvenile charged with having committed a delinquent act, held for trial or while the case is pending appeal, if unable to furnish bail or is denied bail, shall, from the time of his being taken into custody, be committed by the Family Court to the care of the DSWD, a youth detention center, or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the said court. The center or agency concerned shall be responsible for the juvenile's appearance in court whenever required. In the absence of any such center or agency within a reasonable distance from the venue of the trial, the juvenile shall be detained in the provincial, city or municipal jail which shall provide adequate quarters for the juvenile separate from adult detainees and detainees of the opposite sex."

October 6, 2005.

For your information and guidance.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

OCA CIRCULAR NO. 108-2005

TO: ALL TRIAL JUDGES

SUBJECT: GUIDELINES FOR THE SPECIAL
PROCESSING PRIVILEGES FOR THE
FIREARMS OF THE JUDGES

The Supreme Court *En Banc* in its Resolution dated 4 October 2005 in A.M. No. 04-6-18-SC, *Re: Position Paper on Continuing Assassinations/Intentional Killings of Judges while in the Performance of Their Duties*, Resolved to APPROVED the following Guidelines for the Special Processing Privileges for the Firearms of the Judges, as the proposed by the OCA Committee on Security for Lower Court Judges, to wit:

I. Responsibilities of the OCA Security Committee

A. Evaluation of Applications for PTCFOR

1. Judges who wish to apply for PTCFOR with the endorsement of the OCA shall submit the following to the OCA Security Committee
 - a. Application form with 2x2 ID picture (form may be secured in the Camp Crame, the Office of the PNP Regional Commander or the Office of the Provincial Police Director);
 - b. Neuro-Psychiatric (NP) Clearance;
 - c. Drug Test Clearance;
 - d. Duly authenticated copy of oath of office/appointment of applicant;
 - e. Photocopy of valid firearms license;
 - f. Certification that the applicant has undergone basic firearms handling, gun safety seminar and proficiency firing, from a duly accredited gun club or from the OCA Security Committee;
 - g. Certification on the authenticity and genuineness of the documents submitted; and

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h. Payment in cashier's/managers check or postal money order in the initial amount of Php150.00, subject to reasonable increases as the PNP may impose.

2. The Security Committee, in coordination with the Philippine Judicial Academy, shall undertake to conduct basic firearms handling, gun safety seminars and proficiency firing for those members of the Judiciary who wish to apply for PTCFOR in coordination with the enforcement agencies, and issue certifications for those applicants for PTCFOR who attend the same.
3. The Security Committee shall evaluate within one (1) week from receipt thereof applications for PTCFOR of members of the judiciary and ensure that only applications of those who are qualified, competent, and who have submitted the complete required documents shall be endorsed by the OCA to the PNP.
4. Applications endorsed by the Security Committee shall be filed at the FED, Camp Crame, Quezon City, by the liaison officer of the OCA.

II. Responsibilities of the PNP

A. Processing of Applications Endorsed by OCA

1. Applications for the PTCFOR endorsed by the OCA shall be limited to handguns. In extreme cases of threats and imminent danger to one's life, high-powered rifles/shotguns may be allowed, as determined by the PNP.
2. The PNP shall fast track the printing and issuance of the PTCFOR ID Card of the members of the judiciary, which shall be valid for a duration of one (1) year from the date of the approval by the Chief, PNP; PROVIDED: that the period of one (1) year may be shortened upon recommendation of the OCA.

3. The PNP shall deliver to the OCA Security Committee all approved PTCFOR ID cards of members of the judiciary after payment of the appropriate fee. The OCA Security Committee shall be responsible for the distribution and release of the cards to the applicants.

B. Revocation and cancellation of the firearms license and PTCFOR

1. The PNP shall provide for the guidelines to be observed in the revocation and cancellation of the firearms license and PTCFOR of members of the judiciary pursuant to existing laws and regulations for the following causes, and such other causes as they see fit:
 - a. Loss of firearm through negligence;
 - b. Carrying of firearm in prohibited places;
 - c. Conviction of a crime involving moral turpitude or any other offense where the penalty imposed is more than six (6) months imprisonment or a fine of at least Php10,000.00;
 - d. Dismissal for cause from the service;
 - e. Commission of a crime where a firearm is used; and
 - f. Violation of the conditions the PTCFOR is issued.
2. The OCA Security Committee may recommend the revocation of the PTCFOR to the PNP if warranted by the circumstance.

For your information and guidance.

October 19, 2005.

(Sgd.) PRESBITERO J. VELASCO, JR.
Court Administrator

OCA CIRCULAR NO. 111-2005

TO: THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

**SUBJECT: MEMORANDUM CIRCULAR NO. 5-2003
Re: PROHIBITING THE ACCOMMODATION OF STUDENTS TO UNDERGO ON-THE-JOB TRAINING/PRACTICUM IN THE DIFFERENT OFFICES OF THE COURT**

The Supreme Court *En Banc* in its Resolution dated 6 September 2005, in A.M. No. 05-7-16-SC, Re: *Analysis of the Current Judicial System Using Information Technology by Students of the De La Salle University*, Resolved to direct the undersigned to CIRCULARIZE to all lower courts Memorandum Circular No. 05-2003 dated 25 June 2003, to wit:

“MEMORANDUM CIRCULAR No. 5-2003
PROHIBITING THE ACCOMMODATION
OF STUDENTS TO UNDERGO
ON-THE-JOB TRAINING/PRACTICUM
IN THE DIFFERENT OFFICES OF THE COURT

It is observed that some offices of the Court allow students of different colleges and universities to undergo on-the-job training/practicum without authority or approval by the Chief Justice.

Due to security reasons which prompted the Court to deny previous requests of colleges and universities for on-the-job training/practicum, it is noted that the practice of some offices allowing students to undergo on-the-job training/practicum jeopardizes not only the functions of some offices but also their confidential records. Notably, the accommodation of these students pose as a security risk

ACCORDINGLY, in order to ensure the security of officials and employees of the Court as well as its records, all Chiefs of Offices/Services/Divisions of the Court, including those of the Presidential Electoral Tribunal, Judicial and Bar Council and the Philippine Judicial Academy, are hereby directed to disallow on-the-job training/practicum in their respective offices/services/divisions.

The Chief Administrative Officer of the Court, who shall see to it that this Memorandum Circular is strictly complied with, is hereby directed to Furnish all offices, services and

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OCA CIRCULAR NO. 112-2005

TO: ALL EXECUTIVE JUDGES AND PRESIDING JUDGES OF SPECIAL COURTS FOR DRUG CASES

SUBJECT: GUIDELINES TO BE OBSERVED BY THE EXECUTIVE JUDGES AND PRESIDING JUDGES OF SPECIAL COURTS FOR DRUG CASES

The Supreme Court *En Banc* in its Resolution dated 11 October 2005, in A.M. No. 05-9-03-SC, RE: *REQUEST FOR CLARIFICATION ON WHETHER DRUG COURTS SHOULD BE INCLUDED IN THE REGULAR RAFFLE*, provided the following guidelines to be observed by the Executive Judges and Presiding Judges of special courts for drug cases, to wit:

1. Pursuant to Section 90 of R.A. No. 9165, only courts designated by this Court as a special court for drug cases can take cognizance of violations of R.A. No. 9165.
2. Drug courts shall strictly adhere to the periods imposed on them under Section 90 of R.A. No. 9165. Trial of all drug cases assigned to them shall be terminated within sixty (60) days from the filing of the information. Decisions on these cases shall be rendered within fifteen (15) days from the date of submission of the case for resolution.
3. While special courts for drug cases are not prohibited from hearing non-drug related cases, Executive Judges shall continue to exempt them from the regular raffle, *i.e.*, from the raffle of cases which do not involve violations of R.A. No. 9165, until further orders from this court.
4. If, in the opinion of the Executive Judges, the caseload of certain drug courts allows their inclusion in the regular raffle without adversely affecting their ability to expeditiously resolve the drug cases assigned to them and their inclusion in the regular raffle becomes necessary to decongest the caseload of other branches, the concerned Executive Judges shall recommend to this Court the inclusion of drug courts in their jurisdiction in the regular raffle. The concerned drug courts shall remain exempt from the regular raffle until the recommendation is approved.

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3rd Floor, Supreme Court Centennial Building
Padre Faura St. cor. Taft Ave., Manila, Philippines
1000

2005 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
Jan 25-27	5 th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)	CSB Hotel, Malate, Manila
Feb 6-7	Re-Orientation Seminar for Court-Annexed Mediators and Oath Taking Ceremony of Newly Accredited Cebu Mediators	Cebu Grand Hotel, Cebu City
Feb 7	Roundtable Discussion on R.A. No. 9208 and R.A. No. 9262 for NCJR Family Court Judges (Batch 1)	Justices Lounge, Centennial Bldg., Court of Appeals
Feb 8	Seminar on the Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under R.A. No. 9160, as Amended	Discovery Suites, Cebu Grand Hotel and Dynasty Court Hotel(via webcasting)
Feb 13 -24	39 th Orientation Seminar-Workshop for Newly Appointed Judges	PHILJA Development Center, Tagaytay City
Feb 15-17	RJCEP (Level 4) for Region VIII	Leyte Park Hotel, Tacloban
Feb 16-17	Environmental Law Seminar-Workshop for Selected Judges of Panay and Negros Environmental Law Seminar-Workshop for Selected Judges of Panay and Negros Oriental	Iloilo Business Hotel, Mandurriao, Iloilo City
Feb 20-21	Sandiganbayan Employee's Computer Skills Training	Sandiganbayan

Chancellor, Philippine Judicial Academy
JUSTICE AMEURFINA A. MELENCIO HERRERA

Editor-in-Chief
PROFESSOR SEDFREY M. CANDELARIA

Doctrines and Issuances
ATTY. MARLYDS ESTARDO
QUEENCY S. CORTEZ

Features and News
MELANIE H. PEREZ
JOCELYN D. BONDOC

Layout, Production and Circulation
ARMIDA M. SALAZAR

Printing
EDMUNDO M. MOREDO

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