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Excellence in the Judiciary

From the Chancellor's Desk

STRENGTHENING ADR THROUGH JUDICIAL DISPUTE RESOLUTION (JDR)

For this issue, I have invited Atty. Brenda Jay Angeles Mendoza, the Consultant recommended to PHILJA by the Canadian International Development Agency (CIDA), to guest my regular column, to write on JDR. Here is her article:

Background

Not too long ago, the Supreme Court of the Philippines, through the Philippine Judicial Academy (PHILJA), partnered with the Canadian International Development Agency (CIDA) and the National Judicial Institute (NJI) in implementing the Justice Reform Initiatives Support (JURIS) Project – a five-year initiative that aims to contribute to the country's efforts to improve the quality of judicial services and access to justice by poor and marginalized groups.

The JURIS Project was considered successful as it resulted to complete curriculum training in court-annexed mediation (CAM) and judicial dispute resolution (JDR) given to judges, mediators, lawyers, and court personnel; an increased capacity of the PHILJA on alternative dispute resolution (ADR) practices and training methods; and a strengthened Philippine Mediation Center Office (PMCO), the continuing mechanism within the courts for ADR training.

JDR, as an adjunct of court-annexed mediation, enables judges during the pre-trial stage to attempt to settle disputes between party-litigants after a similar effort by a court-accredited mediator has failed.

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Through JDR, judges utilize their skills in mediation, conciliation, and early neutral evaluation to expedite case resolution and help decongest court dockets.

With the end of JURIS and subsequent to the piloting of JDR in six model court sites in the country – San Fernando, Pampanga; Bacolod City; San Fernando, La Union; Cagayan de Oro City; Baguio City; and Makati City – PHILJA-PMCO is now taking the challenge of sustaining and scaling up JDR throughout the country.

Initial Efforts

Designating JDR Focal Persons and Devising the Work Plan for JDR

To demonstrate its commitment to this challenge, PHILJA-PMCO designated two PMCO lawyers, Atty. Rodel Hernandez and Atty. Jose Saluib Jr., as focal persons for JDR. Under the supervision of the PMC Chief of Office, they are expected to assume a vital role in the operations and management of the PMCO insofar as JDR is concerned. This includes ensuring that training activities are well-organized, monitoring tools and reporting processes are efficient, and that support systems for effective JDR implementation are in place.

As part of its Strategic Planning exercise early this year, PHILJA-PMCO further devised an annual work plan for enhancing JDR in existing sites as it decided to roll out JDR in two additional areas – Quezon City and Manila. The roll-out plan commences with a trainers' conference, followed by faculty development workshops and capacity building activities for judges. This also includes orientation seminars for lawyers and court personnel, and an internship program with peer assistance aspects that involves current and newly-trained JDR judges.

Conducting the JDR Trainers' Conference

In March 2010, PHILJA-PMCO conducted a two-day trainers' conference among JDR practitioners in the country. The conference provided an opportunity for the judges to review existing JDR training modules through facilitated workshops and sharing of JDR experiences in their respective courts. It also generated recommendations for the development of enhanced training modules that are more relevant to the knowledge, skills, and attitude concerns of judges, court personnel, and lawyers in JDR.

Another important outcome of this conference was the judges' affirmation of their commitment to advance JDR and to jumpstart future training initiatives by assuming the roles of course leaders, lecturers, resource persons, facilitators, and judge-mentors or peer assistants.

Enhancing JDR Training Program through Faculty Development Workshops

Held a day prior to each JDR training conference, PHILJA-PMCO conducted Faculty Development Workshops with the participating judge-lecturers, resource persons, and facilitators from the current JDR sites. The judge-trainers run through the course program to level-off on the program and session objectives, key learning points, intended training methodology, and materials to be used in the training.

As a result of the exercise, the training program was further enhanced with several changes in the program flow and session methodologies, such as the use of more experiential narratives, panel and group discussions, and additional role-play exercises. In both workshops, it is commendable that judge-trainers willingly adapted to the circumstances by modifying their assigned modules in a very short span of time.

Training 1st and 2nd Level Court Judges in Quezon City

Two training activities on JDR were organized in April and June 2010, the first of a planned series of trainings conducted by PHILJA-PMCO since the completion of the JURIS project.

The first training batch consists of 26 judges from the first and second level courts of Quezon City, including newly appointed judges from the existing JDR sites of Makati City and Pampanga. The second training, on the other hand, saw the participation of 44 first and second level court judges of the city, including those that have not been previously trained in the current JDR sites of Makati City, Benguet, and La Union. JDR Judges Cesar O. Untalan and Selma P. Alaras, both from Makati City, respectively assumed the role of course leaders during these trainings.

Designed to develop and enhance the skills of judges in performing their functions as mediators, conciliators, and neutral evaluators under the court issuances on JDR, the participants were made to understand the context of JDR as a necessary complement of court-annexed mediation and the need for judges to go through a challenging paradigm shift in resolving disputes.

By means of lectures, interactive exercises, and role plays, judges were trained to expand their sphere of influence by conducting JDR and to understand conflicts by looking at the interests involved rather than just the legal rights of parties in resolving disputes. Judges being instrumental in facilitating the negotiations between the parties, skills enhancement exercises and strategies towards effective communication, such as active listening, framing and reframing techniques, were given. As process managers in JDR proceedings, judges were also trained on the use of caucuses as means of handling deadlocks in negotiations as well as other creative techniques for building trust, continuing

communication and joint problem-solving among the parties. The trainings also considered the important ethical, cultural, and social dimensions of dispute resolution.

The participants highly appreciated JDR and the training activities. In their evaluation of the training, most judges found the sessions very interesting, skills-enhancing, and challenging as JDR requires them to assist the parties to think about creative and out-of-the-box solutions to their disputes.

Preparing Lawyers and Court Personnel on JDR in Quezon City

Following the judges' training, a one-day orientation on JDR for clerks of court, prosecutors, and lawyers was organized by PHILJA-PMCO in coordination with the Integrated Bar of the Philippines – Quezon City Chapter. The executive judges of both court levels, Judge Fernando T. Sagun Jr. and Judge Caridad M. Walse-Lutero, also lend their support to this activity.

The orientation program sought to develop a clear understanding of JDR as a complement of court-annexed mediation and to encourage the members of the legal profession within and outside of the courts to become indispensable partners in this effort, particularly as JDR commences in Quezon City.

The program succeeded in drawing a total of 93 attendees composed of 55 court personnel, 10 prosecutors, and 28 private law practitioners.

Preliminary Outcomes

Overall, the initial efforts of PHILJA-PMCO to sustain and scale-up JDR in the country are turning out well, particularly in terms of enhancing the capacity of the judges in resolving disputes through mediation, conciliation, and early neutral evaluation. Recently trained judges gave positive evaluation of the JDR training activities. Of significance to most judges was the welcome challenge of moving mindsets in dispute resolution, of taking off one's robes to demonstrate this paradigm shift, and of explaining such change in demeanor and process to the disputants.

Participants are likewise appreciative of the critical role of judges in contributing to the prompt resolution of cases, de-clogging of court dockets, and most importantly, empowerment of the parties in resolving their own disputes. Increased access to justice, preservation of relationships, and keeping of the peace are also perceived as attainable with JDR.

For these reasons, JDR has indeed stirred the interest and excitement of most judges.

Challenges and Next Steps

Apart from training activities, however, PHILJA-PMCO continues to take on the challenge of sustainability and scaling-up as it embarks on the needed next steps for JDR. This includes preparing for internship and actual roll-out of JDR in Quezon City, managing JDR operations at the PMC office and unit levels in the current and new sites, and strengthening JDR policies.

Preparations for the internship, including peer-to-peer mentoring, and actual roll-out in Quezon City are in progress. Without any external support akin to the JURIS project, PHILJA-PMCO, in coordination with the Office of the Court Administrator, confronts the need to mobilize its manpower and fund resources in order to facilitate the effective roll-out of JDR in Quezon City and other sites. JDR judges from Makati City will need to leave their courts in order to be tapped as peer assistants or mentors in case the newly trained judges from Quezon City would need guidance in the conduct of JDR during the internship period. This will be undertaken by a designated pool of JDR judge-mentors for every new JDR site.

Managing JDR operations at the PMC office and unit levels is another important challenge for PHILJA-PMCO. While focal persons for JDR have already been designated at the central PMC office and current sites are manned by a staff, PHILJA-PMCO needs to continually ensure that monitoring and reporting processes are efficient and that support systems for effective JDR implementation are in place. This includes improvements in reporting, monitoring and evaluation, and database management systems, coordination and feedback mechanisms, stakeholder management, partnership-building and resource mobilization.

Finally, with the constant interaction of policy and practice, PHILJA-PMCO needs to enhance current JDR policy guidelines so that these are more attuned to the felt needs of the JDR community. The initial training conferences have surfaced a number of substantive and procedural concerns that can be best addressed by appropriate policy responses. The challenge is to implement mechanisms that capture these concerns into responsive policy guidance for the JDR practitioners.

PHILJA-PMCO has definitely brewed positive steps towards strengthening ADR through Judicial Dispute Resolution. With strategic optimism and vigorous work to overcome the given challenges, tremendous success in sustaining and scaling-up JDR can be assured.

Brenda Jay Angeles Mendoza

July, 2010

Thank you and all the best.

Adolfo S. Azcuna
Chancellor

▶ *57th Orientation Seminar-Workshop for Newly Appointed Judges*

Date: April 13 to 22, 2010
Venue: Manila Pavilion Hotel, Manila
*Participants:*37 newly appointed judges and 15 promoted judges, namely:

A. New Appointments

Regional Trial Courts

National Capital Judicial Region
Hon. Zaldy B. Docena
RTC Br. 170, Malabon City
Hon. Evangeline M. Francisco
RTC Br. 270, Valenzuela City
Hon. Emma C. Matammu
RTC Br. 269, Valenzuela City
Hon. Myra B. Quiambao
RTC Br. 203, Muntinlupa City

Region I
Hon. Cecilia Corazon S. Dulay-Archog
RTC Br. 21, Vigan, Ilocos Sur
Hon. Gonzalo P. Marata
RTC Br. 48, Urdaneta City, Pangasinan
Hon. Tita S. Obinario
RTC Br. 45,Urdaneta City, Pangasinan
Hon. Rosemarie V. Ramos
RTC Br. 19, Banqui, Ilocos Norte

Region III
Hon. Teresita N. Cativo
RTC Br. 25, Cabanatuan City
Hon. Angelo C. Perez
RTC Br. 27, Cabanatuan City

Region IV
Hon. Gina F. Cenit-Escoto
RTC Br. 78, Morong, Rizal
Hon. Cynthia M. Ricablanca
RTC Br. 27, Sta. Cruz, Laguna
Hon. Gregorio L. Vega, Jr.
RTC Br. 33, Siniloan, Laguna
Hon. Kevin Narce B. Vivero
RTC Br. 71, Antipolo City

Region V
Hon. Bernardo R. Jimenez, Jr.
RTC Br. 54, Gubat, Sorsogon

Region VII
Hon. Samuel S. Malazarte
RTC Br. 15, Cebu City

Region VIII
Hon. Romeo D. Tagra
RTC Br. 32, Calbayog City, Samar

Region IX
Hon. Betlee-Ian J. Barraquias
RTC Br. 3, Jolo, Sulu
Hon. Jaime B. Caberte
RTC Br. 23, Molave, Zamboanga del Sur

Region X
Hon. Arthur L. Abundiente
RTC Br. 25, Cagayan de Oro City
Hon. Ma. Corazon B. Gaite-Llanderal
RTC Br. 40, Cagayan de Oro City

Region XII
Hon. Wenida M. Papandayan
RTC Br. 10, Marawi City, Lanao del Sur

Metropolitan Trial Courts

National Capital Judicial Region
Hon. Nestor V. Gapuzan
MeTC Br. 75, Marikina City
Hon. Carissa Anne O. Manook-Frondozo
MeTC Br. 7, Manila
Hon. Phoeve C. Meer
MeTC Br. 17, Manila
Hon. Ronaldo B. Reyes
MeTC Br. 58, San Juan City
Hon. Juliet M. San Gaspar
MeTC Br. 18, Manila
Hon. Eliza B. Yu
MeTC Br. 47, Pasay City

Municipal Trial Courts in Cities

Region IV
Hon. Derela D. Devera
MTCC Br. 1, Lucena City

Region IX
Hon. Chad Martin Paler
MTCC Br. 1, Dipolog City, Zamboanga del Norte

Municipal Trial Courts

Region III
Hon. Marinel O. Agudo-Santos
MTC Guimba, Nueva Ecija
Hon. Rhodalyn N. Montemayor-Abas
MTC Camiling, Tarlac

Region IV
Hon. Rhoda Magdalene Mapile-Osinada
MTC Mulanay, Quezon

Region V
Hon. Leo G. Lee
MTC Irosin, Sorsogon

Municipal Circuit Trial Courts

Region I
Hon. Leah Agripina G. Ramirez-Florendo
5th MCTC Sta. Maria-Burgos, Ilocos Sur

REGION V
Hon. Soliman M. Santos, Jr.
9th MCTC Nabua-Bato, Camarines Sur

REGION VI
Hon. Rhea I. Vidal-Ibarreta
1st MCTC New Washington-Batan, Aklan

B. PROMOTIONS

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION
Hon. Elpidio R. Calis
RTC Br. 133, Makati City
Hon. Rico Sebastian D. Liwanag
RTC Br. 136, Makati City
Hon. Rosalyn D. Mislos-Loja
RTC Br. 41, Manila
Hon. Ma. Bernardita J. Santos
RTC Br. 35, Manila

REGION I
Hon. Efren B. Tienzo
RTC Br. 49, Urdaneta, Pangasinan

REGION II
Hon. Edmar P. Castillo, Sr.
RTC Br. 11, Tuao, Cagayan
Hon. Eufren F. Changale
RTC Br. 32, Cabarroguis, Quirino

REGION III
Hon. Loreto S. Alog, Jr.
RTC Br. 38, San Jose City, Nueva Ecija

REGION IV
Hon. Rolando E. Silang
RTC Br. 11, Balayan, Batangas

REGION VI
Hon. Neciforo C. Enot
RTC Br. 44, Dumaguete City, Negros Oriental
Hon. Eliseo C. Geolingo
RTC Br. 45, Bacolod City

REGION VII
Hon. James Stewart Ramon E. Himalaloan
RTC Br. 62, Oslob, Cebu

REGION VIII
Hon. Decoroso M. Turla
RTC Br. 21, Lao-ang, Northern Samar

REGION XII
Hon. Pundaya M. Berua
RTC Br. 26, Wao, Lanao del Sur

MUNICIPAL TRIAL COURT

REGION XI
Hon. Rufo U. Naragas
MTC Tandag, Surigao del Sur

▶ *58th Orientation Seminar-Workshop for Newly Appointed Judges*

Date: May 18 to 27, 2010
Venue: Century Park Hotel, Manila
Participants: 28 newly appointed judges and 10 promoted judges, namely:

A. NEW APPOINTMENTS

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION
Hon. Anjanette N. De-Leon-Ortile
RTC Br. 156, Marikina City

REGION I
Hon. Rufus G. Malecdan, Jr.
RTC Br. 15, Alfonso Lista, Ifugao

REGION II
Hon. Ramon B. Baroña
RTC Br. 13, Basco, Batangas

REGION III
Hon. Felizardo S. Montero, Jr.
RTC Br. 29, Cabanatuan City, Nueva Ecija
Hon. Anarica C. Reyes
RTC Br. 88, Sto. Domingo, Nueva Ecija

REGION IV
Hon. Sheila Marie A. Ignacio
RTC Br. 80, Morong, Rizal
Hon. Dennis R. Pastrana
RTC Br. 56, Lucena City

REGION V
Hon. Rofebar F. Gerona
RTC Br. 53, Sorsogon, Sorsogon

REGION VI
Hon. Ma. Mercedita U. Sarsaba
RTC Br. 31, Dumaguete City, Negros Oriental

REGION VII
Hon. Ronald H. Exmundo
RTC Br. 4, Kalibo, Aklan
Hon. Wilfredo F. Navarro
RTC Br. 19, Cebu City

REGION X
Hon. Bonifacio M. Macabaya
RTC Br. 20, Cagayan de Oro City

REGION XII
Hon. Concordio Y. Baguio
RTC Br. 4, Iligan City, Lanao del Norte
Hon. Leonor S. Quiñones
RTC Br. 6, Iligan City, Lanao del Norte

(Continued on next page)

METROPOLITAN TRIAL COURTS

Hon. Janet Abergos-Samar
MeTC Br. 32, Quezon City
Hon. Juris S. Dilinila-Callanta
MeTC Br. 42, Quezon City
Hon. Maria Gilda L. Pangilinan
MeTC Br. 31, Quezon City
Hon. Eduardo Ramon R. Reyes
MeTC Br. 68, Pasig City

MUNICIPAL TRIAL COURTS IN CITIES

REGION II
Hon. Alexander V. De Guzman
MTCC Br. 2, Santiago City, Isabela

REGION VII
Hon. Pamela A. Baring-Uy
MTCC Br. 6, Cebu City

MUNICIPAL TRIAL COURTS

REGION II
Hon. Eric D. Banasan
MTC San Mateo, Isabela
Hon. Jennifer S. Loveria
MTC Palanan, Isabela

REGION III
Hon. Julie Rita S. Badillo
MTC Norzagaray, Bulacan
Hon. Lyn C. Ebora-Cacha
MTC Guagua, Pampanga

REGION IV
Hon. Francelyn G. Begonia
MTC Sariaya, Quezon

REGION IX
Hon. Glenn C. Sabijon
MTC Buug, Zamboanga Sibugay

MUNICIPAL CIRCUIT TRIAL COURTS

REGION VII
Hon. Allan Edwin p. Boncavil
1st MCTC Siquijor-Enrique, Siquijor
Hon. Maribel D. De Guia-Cipriano
7th MCTC Ibajay-Nabas, Aklan

B. PROMOTIONS

REGIONAL TRIAL COURT

NATIONAL CAPITAL JUDICIAL REGION
Hon. Paulino Q. Gallegos
RTC Br. 47, Manila
Hon. Buenaventura Albert J. Tenorio
RTC Br. 14, Manila

REGION I
Hon. Jaime L. Dojillo, Jr.
RTC Br. 58, Bucay, Abra

REGION III
Hon. Teodora R. Gonzales
RTC Br. 14, Malolos, Bulacan
Hon. Eleanor Teodora M. Vizcarra
RTC Br. 89, Sto. Domingo, Nueva Ecija

REGION IV
Hon. Amy Melba S. Belulia
RTC Br. 30, San Pablo City, Laguna
Hon. Dorcas P. Ferriols-Perez
RTC Br. 84, Batangas City

REGION VII
Hon. Jemena A. Arbis
RTC Br. 6, Kalibo, Aklan

REGION XII
Hon. Gamor B. Disalo
RTC Br. 8, Marawi City
Hon. Antonio M. Guiling
RTC Br. 9, Marawi City

▶ *14th National Convention and Seminar of the Philippine Association of Court Employees (PACE)*

Theme: PACE: Forward into the Next Decade of Sustained Growth and Leadership
Date: April 6 to 8, 2010
Venue: The Atrium, Limketkai Mall, Cagayan de Oro City
Participants: 2,959 members of PACE

▶ *Seminar on Election Laws for Judges of the Regional Trial Courts*

Development Partners: USAID; ABA- ROLI; Libertas; IFES

Date: April 19, 2010
Venue: Marco Polo Plaza, Cebu
Participants: 134 RTC Judges of Regions VI toVIII

Date: April 23, 2010
Venue: Baguio Country Club, Baguio City
Participants: 133 RTC Judges of Regions I to III

Date: April 27, 2010
Venue: Marco Polo Hotel, Davao City
Participants: 78 RTC Judges of Regions IX to XII

Date: May 4, 2010
Venue: Traders Hotel, Pasay City
Participants: 115 RTC Judges of Regions IV and V

Date: May 5, 2010
Venue: Traders Hotel, Pasay City
Participants: 211 RTC Judges of NCJR

▶ ***Seminar on Speedy Trial and Disposition of Cases***

Development Partners: USAID; ABA- ROLI

1st Level – Luzon, Regions I and II
Date: April 15, 2010
Venue: Baguio Country Club, Baguio City
Participants: 45 selected judges

1st Level – Luzon, Region III
Date: May 21, 2010
Venue: Holiday Inn Clark Philippines, Pampanga
Participants: 52 selected judges

▶ ***Information Dissemination Through A Dialogue Between the Barangay Officials of the Province of Abra and the Chief Justice with Other Court Officials***

Date: April 16, 2010
Venue: Divine Word College, Bangued, Abra
Participants: 382 comprising barangay officials and other lupon members

▶ ***Seminar-Workshop on the Rule of Procedure for Small Claims Cases***

Development Partners: OCA; USAID; ABA-ROLI

Date: April 21, 2010
Venue: Marco Polo Plaza Cebu, Cebu City
Participants: 140 First Level Trial Court judges and clerks of court of Region VII

Date: May 19, 2010
Venue: Leyte Park Hotel, Tacloban City
Participants: 148 First Level Trial Court judges and clerks of court of Region VIII

Date: June 15, 2010
Venue: Fort Ilocandia Hotel, Laoag City
Participants: Batch 1- 83 First Level Trial Court judges and clerks of court of Region I

Date: June 17, 2010
Venue: Fort Ilocandia Hotel, Laoag City
Participants: Batch 2- 106 First Level Trial Court judges and clerks of court of Region I

Date: June 24, 2010
Venue: Pryce Plaza Hotel, Cagayan de Oro City
Participants: 124 First Level Trial Court judges and clerks of court of Region X

▶ ***Chief Justice Reynato S. Puno Fourth Distinguished Lecture***

Topic: The Philosophy of the Puno Court
Lecturer: Dean Pacifico A. Agabin, *Chair of PHILJA Constitutional Law Department*
Date: May 7, 2010
Venue: PHILJA Training Center, Tagaytay City

▶ ***Inauguration of the PHILJA Training Center***

Date: May 7, 2010
Venue: Barangay Maitim, Tagaytay City
Special Guests: Her Excellency Gloria Macapagal Arroyo; Chief Justice Reynato S. Puno; Ambassador Makoto Katsura; Retired Chief Justice Artemio V. Panganiban; Retired Chief Justice Andres R. Narvasa; and Tagaytay City Mayor Abraham Tolentino

▶ ***Seminar-Workshop on CEDAW and Gender Sensitivity for Court of Appeals Lawyers***

CA-Manila
Development Partners: CGRJ; CA-GAD Focal Point; AHRC
Date: May 13 to 14, 2010
Venue: Manila Pavilion, Manila
Participants: 46 lawyers

CA-Cebu Station
Date: June 17 to 18, 2010
Venue: Cebu Parklane International Hotel, Cebu City
Participants: 50 lawyers

▶ ***Competency Enhancement Training for Judges and Court Personnel Handling Child Abuse and Trafficking Cases***

Development Partners: CPU Net; UNICEF
Date: May 25 to 27, 2010
Venue: Avenue Plaza Hotel, Naga City
Participants: 57 comprising Family Court judges and court personnel from the Bicol Region

▶ ***Third Seminar-Workshop on Deposit Insurance, Banking Practices, and Bank Conservatorship, Receivership and Liquidation***

Development Partner: PDIC
Date: June 9 to 10, 2010
Venue: Century Park Hotel, Manila
Participants: 71 selected RTC judges from Regions III, IV, and V

▶ ***Orientation Seminar-Workshop on Comparative Analysis between the Family Code and the Code of Muslim Personal Laws***

Date: June 15 to 17, 2010
Venue: Grand Regal Hotel, Bacolod City
Participants: 54 comprising selected judges from Negros Occidental and representatives from NBI, military, PAO, IBO and CHR

▶ ***Pilot Multi-Sectoral Capacity-Building on Environmental Law for the Pillars of the Justice System***

Development Partners: UNDP; SC-PMO; DENR
Date: June 23 to 25, 2010
Venue: Legend Hotel, Puerto Princesa City, Palawan
Participants: 103 comprising judges, branch clerks of court, prosecutors and representatives from PAO, DENR, DA-BFAR, civil societies, law enforcement agencies, NCIP, local government units, NEDA, FPI, UNDP and ADB

▶ ***Judicial Settlement Conference for Judges on Judicial Dispute Resolution (Skills-Based Course)***

1st Batch
Date: April 21 to 23, 2010
Venue: Astoria Plaza, Pasig City
Participants: 26 RTC and First Level Court judges of Quezon City

2nd Batch
Date: June 2 to 4, 2010
Venue: Astoria Plaza, Pasig City
Participants: 44 selected judges

▶ ***Refresher Course for Court-Annexed Mediators***

Laguna Mediation Program
Date: May 18 to 19, 2010
Venue: Technopark Hotel, Sta. Rosa, Laguna
Participants: 31 mediators

Batangas Mediation Program
Date: May 20 to 21, 2010
Venue: Batangas Country Club, Batangas City
Participants: 22 mediators

Nueva Ecija, Tarlac and Tuguegarao Mediation Program
Date: May 25 to 26, 2010
Venue: La Parilla Hotel, Cabanatuan City
Participants: 26 mediators

Zambales, Bataan and Pampanga Mediation Program
Date: May 27 to 28, 2010
Venue: Subic Bay Venezia Hotel, Olongapo City
Participants: 33 mediators

Cebu Mediation Program
Date: June 2 to 3, 2010
Venue: Golden Prince Hotel and Suites, Cebu City
Participants: 19 mediators

Zamboanga Mediation Program
Date: June 8 to 9, 2010
Venue: Century Park Hotel, Zamboanga City
Participants: 11 mediators

Panay Mediation Program
Date: June 17 to 18, 2010
Venue: Sarabia Manor Hotel, Iloilo City
Participants: 37 mediators

Benguet and Pangasinan Mediation Program
Date: June 22 to 23, 2010
Venue: Hotel Veniz, Baguio City
Participants: 54 mediators

▶ ***Orientation for Clerks of Court, Prosecutors, and Lawyers on Judicial Dispute Resolution***
Date: June 25, 2010
Venue: Bulwagang Amoranto, Quezon City Hall
Participants: 101 comprising representatives from IBP and PAO, prosecutors, clerks of courts from Quezon City First Level and Second Level Courts

▶ ***JUDICIAL MOVES***

Hon. Renato C. Corona
Chief Justice of the Philippines
appointed on May 17, 2010

Doctrinal Reminders
REMEDIAL LAW *(continued from page 13)*

in the earlier final judgment or order becomes conclusive and continues to be binding between the same parties, their privies and successors-in-interest, as long as the facts on which that judgment was predicated continue to be the facts of the case or incident before the court in a later case; the binding effect and enforceability of that earlier dictum can no longer be re-litigated in a later case since the issue has already been resolved and finally laid to rest in the earlier case.

(Brion, *J.* Hacienda Bigaa, Inc. *v.* Epifanio V. Chavez (deceased), substituted by Santiago V. Chavez, G.R. No. 174160, April 20, 2010.)

UPCOMING ACTIVITIES *(continued from page 44)*

- Meeting of Writers and Editorial Consultants of the Extralegal Killings
  September 11, Makati City
- Seminar-Workshop on the Rule of Procedure for Small Claims Cases - Region 3
  September 14 & 16, Clark
- Personal Security Training for Judges (Mindanao)
  September 14-16, General Santos City
- Third Multi-Sectoral Capacity-Building on Environmental Laws and the Rules of Procedure for Environmental Cases(CARAGA)
  September 15-17, Butuan City
- National Convention-Seminar of the Metropolitan Trial Court and City Judges Association of the Philippines (MeTCJAP)
  September 21-24, Manila
- Information Dissemination (E-JOW)
  September 23, Dipolog City
- Information Dissemination (E-JOW)
  September 24, Pagadian City
- Information Dissemination (E-JOW)
  September 27, Zamboanga City
- Seminar-Worshop on Comparative Analysis between the Family Code and the Muslim Personal Laws
  September 28-30, Surigao City
- Validation Workshop on the Extralegal Killings Helpbook
  September 29, Makati City

New Rulings

REMEDIAL LAW

Jurisdiction to review decisions or resolutions issued by the divisions of the Court of Tax Appeals (CTA) no longer with the Court of Appeals (CA) but with the CTA En Banc.

Jurisdiction to review decisions or resolutions issued by the Divisions of the CTA is no longer with the CA but with the CTA En Banc. This rule is embodied in Section 11 of RA No. 9282, which provides that:

> SEC. 11. Section 18 of the same Act is hereby amended as follows:
>
> SEC. 18. *Appeal to the Court of Tax Appeals En Banc.* – No civil proceeding involving matters arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.
>
> **A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA En Banc.** *(Emphasis supplied)*

(Del Castillo, *J.*, TFS, Incorporated *v.* Commissioner of Internal Revenue, G.R. No. 166829, April 19, 2010.)

PHILJA BULLETIN

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Chancellor, Philippine Judicial Academy

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Doctrinal Reminders

ADMINISTRATIVE LAW

Security of tenure in the civil service; probationary employees also enjoy security of tenure.

Under Civil Service rules, the first six months of service following a permanent appointment shall be probationary in nature, and the probationer may be dropped from the service for unsatisfactory conduct or want of capacity anytime before the expiration of the probationary period.

The CSC is of the position that a civil service employee does not enjoy security of tenure during his 6-month probationary period. It submits that an employee's security of tenure starts only after the probationary period. Specifically, it argued that "an appointee under an original appointment cannot lawfully invoke right to security of tenure until after the expiration of such period and provided that the appointee has not been notified of the termination of service or found unsatisfactory conduct before the expiration of the same."

The CSC position is contrary to the Constitution and the Civil Service Law itself. Section 3(2) Article 13 of the Constitution guarantees the rights of ***all workers*** not just in terms of self-organization, collective bargaining, peaceful concerted activities, the right to strike with qualifications, humane conditions of work and a living wage but also to ***security of tenure***, and Section 2(3), Article IX-B is emphatic in saying that, ***"no officer or employee of the civil service shall be removed or suspended except for cause as provided by law."***

Consistently, Section 46(a) of the Civil Service Law provides that ***"no officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law after due process."***

Our Constitution, in using the expressions "all workers" and "no officer or employee," puts no distinction between a probationary and a permanent or regular employee which means that both probationary and permanent employees enjoy security of tenure. Probationary employees enjoy security of tenure in the sense that during their probationary employment, they cannot be dismissed except for cause or for failure to qualify as regular employees. This was clearly stressed in the case of *Land Bank of the Philippines v. Rowena Paden*, where it was written:

> To put the case in its proper perspective, we begin with a discussion on the respondent's

Doctrinal Reminders
ADMINISTRATIVE LAW (continued)

> right to security of tenure. Article IX (B), Section 2(3) of the 1987 Constitution expressly provides that "[n]o officer or employee of the civil service shall be removed or suspended except for cause provided by law." At the outset, we emphasize that the aforementioned ***constitutional provision does not distinguish between a regular employee and a probationary employee***. In the recent case of *Daza v. Lugo* we ruled that:
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> > The Constitution provides that "[N]o officer or employee of the civil service shall be removed or suspended except for cause provided by law." Sec. 26, par. 1, Chapter 5, Book V, Title I-A of the Revised Administrative Code of 1987 states:
> >
> > All such persons (appointees who meet all the requirements of the position) must serve a probationary period of six months following their original appointment and shall undergo a thorough character investigation in order to acquire permanent civil service status. A probationer may be dropped from the service for unsatisfactory conduct or want of capacity any time before the expiration of the probationary period; Provided, That such action is appealable to the Commission.
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> > Thus, the services of respondent as **a probationary employee** may only be **terminated** for **a just cause**, that is, unsatisfactory conduct or want of capacity. (*Emphasis supplied*)
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> x x x x
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> x x x the **only difference** between regular and probationary employees from the perspective of due process is that the latter's termination can be based on the wider ground of failure to comply with standards made known to them when they became probationary employees."

The constitutional and statutory guarantee of security of tenure is extended to both those in the career and non-career service positions, and the cause under which an employee may be removed or suspended must naturally have some relation to the character or fitness of the officer or employee, for the discharge of the functions of his office, or expiration of the project for which the employment was extended. Further, well-entrenched is the rule on security of tenure that such an appointment is issued and the moment the appointee assumes a position in the civil service under a completed appointment, he acquires a legal, not merely equitable right (to the position), which is protected not only by statute, but also by the Constitution [Article IX-B, Section 2, paragraph (3)] and cannot be taken away from him either by revocation of the appointment, or by removal, except for cause, and with previous notice and hearing.

While the CSC contends that a probationary employee does not enjoy security of tenure, its Omnibus Rules recognizes that such an employee cannot be terminated except for cause. Note that in the Omnibus Rules it cited, a decision or order dropping a probationer from the service for unsatisfactory conduct or want of capacity anytime before the expiration of the probationary period *"is appealable to the Commission."* This can only mean that a probationary employee cannot be fired at will.

Notably, jurisprudence has it that the right to security of tenure is unavailing in certain instances. In *Orcullo Jr. v. Civil Service Commission,* it was ruled that the right is not available to those employees whose appointments are contractual and coterminous in nature. Such employment is characterized by "a tenure which is limited to a period specified by law, or that which is coterminous with the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made." In *Amores M.D. v. Civil Service Commission,* it was held that a civil executive service appointee who meets all the requirements for the position, except only the appropriate civil service eligibility, holds the office in a temporary capacity and is, thus, not entitled to a security of tenure enjoyed by permanent appointees.

(Mendoza, *J.*, Civil Service Commission *v.* Gregorio Magnaye, Jr., G.R. No. 183337, April 23, 2010.)

REMEDIAL LAW

Failure to prosecute; instances when a complaint may be dismissed for failure to prosecute.

Gomez v. Alcantara enumerates the instances when a complaint may be dismissed due to the plaintiff's fault: (1) if he fails to appear on the date for the presentation of his evidence in chief on the complaint; (2) if he fails to prosecute his action for an unreasonable length of time; or (3) if he fails to comply with the Rules or any order of the court. The dismissal of a case for failure to prosecute has the effect of adjudication on the merits, and is necessarily understood to be with prejudice to the filing of another action, unless otherwise provided in the order of dismissal. Stated differently, the general rule is that

(Continued on next page)

Doctrinal Reminders
REMEDIAL LAW (continued)

dismissal of a case for failure to prosecute is to be regarded as an adjudication on the merits and with prejudice to the filing of another action, and the only exception is when the order of dismissal expressly contains a qualification that the dismissal is without prejudice."

Furthermore, in *Marahay v. Melicor*, we pronounced that "[w]hile a court can dismiss a case on the ground of *non prosequitur*, the real test for the exercise of such power is whether, under the circumstances, plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude. In the absence of a pattern or scheme to delay the disposition of the case or a wanton failure to observe the mandatory requirement of the rules on the part of the plaintiff, as in the case at bar, courts should decide to dispense with rather than wield their authority to dismiss."

(Leonardo-De Castro, *J.*, PCI Leasing Finance Inc. *v.* Antonio C. Milan, Doing Business, Under the Name and Style of "A. Milan Trading," and Laura M. Milan, G.R. No. 151215, April 5, 2010.)

Real party in interest defined; actions filed not by real party in interest must be dismissed.

SECTION 2, Rule 3 of the Rules of Court states:

> A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

This provision has two requirements: 1) to institute an action, the plaintiff must be the real party in interest; and 2) the action must be prosecuted in the name of the real party in interest. *Interest* within the meaning of the Rules of Court means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere curiosity about the question involved. One having no material interest to protect cannot invoke the jurisdiction of the court as the plaintiff in an action. When the plaintiff is not the real party in interest, the case is dismissible on the ground of lack of cause of action.

An action for annulment of certificates of title to property into the issue of ownership of the land covered by a Torrens title and the relief generally prayed for by the plaintiff is to be declared as the land's true owner. The real party in interest in such action therefore is the person claiming title or ownership adverse to that of the registered owner. The case of *Tankiko v. Cezar* has illustrated for us the application of this principle in the following manner:

> **It is evident that respondents are not the real parties in interest. Because they admit that they are not the owners of the land but mere applicants for sales patents thereon, it is daylight clear that the land is public in character and that it should revert to the State.** This being the case, Section 101 of the Public Land Act categorically declares that only the government may institute an action to recover ownership of a public land.
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> x x x x
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> Under Section 2, Rule 3 of the Rules of Court, every action must be prosecuted or defended in the name of the real party in interest. It further defines a "real party in interest" as one who stands to be benefited or injured by the judgment in the suit. x x x **The interest of the party must be personal and not one based on a desire to vindicate the constitutional right of some third and unrelated party.**
>
> **Clearly, a suit filed by a person who is not a party in interest must be dismissed.** Thus, in *Lucas v. Durian*, the Court affirmed the dismissal of a Complaint filed by a party who alleged that the patent was obtained by fraudulent means and, consequently, prayed for the annulment of said patent and the cancellation of a certificate of title. The Court declared that the proper party to bring the action was the government, to which the property would revert. Likewise affirming the dismissal of a Complaint for failure to state a cause of action, the Court in *Nebrada v. Heirs of Alivio* noted that the plaintiff, being a mere homestead applicant, was not the real party in interest to institute an action for reconveyance.
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> x x x x
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> Verily, the Court stressed that "if the suit is not brought in the name of or against the real party in interest, a motion to dismiss may be filed on the ground that the complaint states no cause of action." (*Emphasis supplied*)

(Brion, *J.*, Nemesio Goco, Lydia G. Fabian, Natalia Brotonel, Flora Gayoso, Blemie Soriano, Elpidia Navales, Sergio Romasanta, Catalina Namis, and Nancy Pamatiga, represented by their Attorneys-in-Fact, Lydia G. Fabian, Elpidia Navales and Natalia Brotonel *v.* Honorable Court of Appeals, Atty. Hicoblino Catly, Lourdes Catly, and the Register of Deeds, Calapan City, Oriental Mindoro, G.R. No. 157449, April 6, 2010.)

Summary judgment; requisites for summary judgment to be proper.

Summary judgment has been explained as follows:

> Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays. When the pleadings on file show that there are no genuine issues of fact to be tried, the Rules allow a party to obtain immediate relief by way of summary judgment, that is, when the facts are not in dispute, the court is allowed to decide the case summarily by applying the law to the material facts. Conversely, where the pleadings tender a genuine issue, summary judgment is not proper. A "genuine issue" is such issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim. Section 3 of the said rule provides two (2) requisites for summary judgment to be proper: (1) there must be no genuine issue as to any material fact, except for the amount of damages; and (2) the party presenting the motion for summary judgment must be entitled to a judgment as a matter of law. A summary judgment is permitted only if there is no genuine issue as to any material fact and a moving party is entitled to a judgment as a matter of law. A summary judgment is proper if, while the pleadings on their face appear to raise issues, the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine.

(Carpio, *J.*, Manuel C. Bungcayao, Sr., represented in this case by his Attorney-in-fact ROMEL R. Bungcayao *v.* Fort Ilocandia Property Holdings, and Development Corporation, G.R. No. 170483, April 19, 2010.)

***Res judicata*; two distinct concepts of *res judicata*.**

The doctrine of *res judicata* is set forth in Section 47 of Rule 39 of the Rules of Court, which in its relevant part reads:

> **Sec. 47.** ***Effect of judgments or final orders.*** — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
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> x x x x
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> (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
>
> (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

This provision comprehends two distinct concepts of *res judicata*: (1) *bar by former judgment* and (2) *conclusiveness of judgment*. Under the first concept, *res judicata* absolutely bars any subsequent action when the following requisites concur: (a) the former judgment or order was final; (b) it adjudged the pertinent issue or issues on their merits; (c) it was rendered by a court that had jurisdiction over the subject matter and the parties; and (d) between the first and the second actions, there was identity of parties, of subject matter, and of *causes of action*.

Where no identity of causes of action but only *identity of issues* exists, *res judicata* comes under the second concept – i.e., under **conclusiveness of judgment**. Under this concept, the rule bars the re-litigation of particular facts or issues involving the same parties even if raised under *different* claims or causes of action. Conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction. The fact or question settled by final judgment or order binds the parties to that action (and persons in privity with them or their successors-in-interest), and continues to bind them while the judgment or order remains standing and unreversed by proper authority on a timely motion or petition; the conclusively settled fact or question furthermore cannot again be litigated in any future or other action between the same parties or their privies and successors-in-interest, in the same or in any other court of concurrent jurisdiction, either for the same or for a different cause of action. Thus, only the identities of *parties and issues* are required for the operation of the principle of conclusiveness of judgment.

While *conclusiveness of judgment* does not have the same barring effect as that of a *bar by former judgment* that proscribes subsequent actions, the former nonetheless estops the parties from raising in a later case the issues or points that were raised and controverted, and were determinative of the ruling in the earlier case. In other words, the dictum laid down

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RESOLUTION of the COURT En Banc dated April 13, 2010, on A.M. No. 09-6-8-SC

RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

PART I

RULE 1
GENERAL PROVISIONS

SECTION 1. ***Title.*** **–** These Rules shall be known as "*The Rules of Procedure for Environmental Cases*."

SEC. 2. ***Scope.*** **–** These Rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:

(a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;

(b) Presidential Decree No. 705, Revised Forestry Code;

(c) Presidential Decree No. 856, Sanitation Code;

(d) Presidential Decree No. 979, Marine Pollution Decree;

(e) Presidential Decree No. 1067, Water Code;

(f) Presidential Decree No. 1151, Philippine Environmental Policy of 1977;

(g) Presidential Decree No. 1433, Plant Quarantine Law of 1978;

(h) Presidential Decree No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;

(i) Republic Act No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;

(j) Republic Act No. 4850, Laguna Lake Development Authority Act;

(k) Republic Act No. 6969, Toxic Substances and Hazardous Waste Act;

(l) Republic Act No. 7076, People's Small-Scale Mining Act;

(m) Republic Act No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;

(n) Republic Act No. 7611, Strategic Environmental Plan for Palawan Act;

(o) Republic Act No. 7942, Philippine Mining Act;

(p) Republic Act No. 8371, Indigenous Peoples Rights Act;

(q) Republic Act No. 8550, Philippine Fisheries Code;

(r) Republic Act No. 8749, Clean Air Act;

(s) Republic Act No. 9003, Ecological Solid Waste Management Act;

(t) Republic Act No. 9072, National Caves and Cave Resource Management Act;

(u) Republic Act No. 9147, Wildlife Conservation and Protection Act;

(v) Republic Act No. 9175, Chainsaw Act;

(w) Republic Act No. 9275, Clean Water Act;

(x) Republic Act No. 9483, Oil Spill Compensation Act of 2007; and

(y) Provisions in Commonwealth Act No. 141, The Public Land Act; Republic Act No. 6657, Comprehensive Agrarian Reform Law of 1988; Republic Act No. 7160, Local Government Code of 1991; Republic Act No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); Republic Act No. 7308, Seed Industry Development Act of 1992; Republic Act No. 7900, High-Value Crops Development Act; Republic Act No. 8048, Coconut Preservation Act; Republic Act No. 8435, Agriculture and Fisheries Modernization Act of 1997; Republic Act No. 9522, The Philippine Archipelagic Baselines Law; Republic Act No. 9593 [9513], Renewable Energy Act of 2008; Republic Act No. 9637 [9367], Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources.

SEC. 3. ***Objectives.*** **–** The objectives of these Rules are:

(a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;

(b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the

RESOLUTION on A.M. No. 09-6-8-SC (continued)

Constitution, existing laws, rules and regulations, and international agreements;

(c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and

(d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

Sec. 4. ***Definition of Terms.***

(a) *By-product or derivatives* means any part taken or substance extracted from wildlife, in raw or in processed form including stuffed animals and herbarium specimens.

(b) *Consent decree* refers to a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment.

(c) *Continuing mandamus* is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.

(d) *Environmental Protection Order (EPO)* refers to an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve or rehabilitate the environment.

(e) *Mineral* refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.

(f) *Precautionary principle* states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.

(g) *Strategic Lawsuit Against Public Participation (SLAPP)* refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

(h) *Wildlife* means wild forms and varieties of flora and fauna, in all developmental stages including those which are in captivity or are being bred or propagated.

Part II
Civil Procedure

Rule 2
Pleadings and Parties

Section 1. ***Pleadings and motions allowed.*** **–** The pleadings and motions that may be filed are complaint, answer which may include compulsory counterclaim and cross-claim, motion for intervention, motion for discovery and motion for reconsideration of the judgment.

Motion for postponement, motion for new trial and petition for relief from judgment shall be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice.

Sec. 2. ***Prohibited pleadings or motions.*** **–** The following pleadings or motions shall not be allowed:

(a) Motion to dismiss the complaint;

(b) Motion for a bill of particulars;

(c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed 15 days;

(d) Motion to declare the defendant in default;

(e) Reply and rejoinder; and

(f) Third party complaint.

Sec. 3. ***Verified complaint.*** **–** The verified complaint shall contain the names of the parties, their addresses, the cause of action and the reliefs prayed for.

The plaintiff shall attach to the verified complaint all evidence proving or supporting the cause of action consisting of the affidavits of witnesses, documentary evidence and if possible, object evidence. The affidavits shall be in question and answer form and shall comply with the rules of admissibility of evidence.

The complaint shall state that it is an environmental case and the law involved. The complaint shall also include a certification against forum shopping. If the complaint is not an environmental complaint, the presiding judge shall refer it to the executive judge for re-raffle.

(Continued on next page)

RESOLUTION on A.M. No. 09-6-8-SC (continued)

Sec. 4. ***Who may file.*** **–** Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

Sec. 5. ***Citizen suit.*** **–** Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws. Upon the filing of a citizen suit, the court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within 15 days from notice thereof. The plaintiff may publish the order once in a newspaper of a general circulation in the Philippines or furnish all affected barangays copies of said order.

Citizen suits filed under RA No. 8749 and RA No. 9003 shall be governed by their respective provisions.

Sec. 6. ***Service of the complaint on the government or its agencies.*** – Upon the filing of the complaint, the plaintiff is required to furnish the government or the appropriate agency, although not a party, a copy of the complaint. Proof of service upon the government or the appropriate agency shall be attached to the complaint.

Sec. 7. ***Assignment by raffle.*** **–** If there is only one designated branch in a multiple-sala court, the executive judge shall immediately refer the case to said branch. If there are two or more designated branches, the executive judge shall conduct a special raffle on the day the complaint is filed.

Sec. 8. ***Issuance of Temporary Environmental Protection Order (TEPO).*** **–** If it appears from the verified complaint with a prayer for the issuance of an Environmental Protection Order (EPO) that the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of the multiple-sala court before raffle or the presiding judge of a single-sala court as the case may be, may issue *ex parte* a TEPO effective for only 72 hours from date of the receipt of the TEPO by the party or person enjoined. Within said period, the court where the case is assigned, shall conduct a summary hearing to determine whether the TEPO may be extended until the termination of the case.

The court where the case is assigned, shall periodically monitor the existence of acts that are the subject matter of the TEPO even if issued by the executive judge, and may lift the same at any time as circumstances may warrant.

The applicant shall be exempted from the posting of a bond for the issuance of a TEPO.

Sec. 9. ***Action on motion for dissolution of TEPO.*** **–** The grounds for motion to dissolve a TEPO shall be supported by affidavits of the party or person enjoined which the applicant may oppose, also by affidavits.

The TEPO may be dissolved if it appears after hearing that its issuance or continuance would cause irreparable damage to the party or person enjoined while the applicant may be fully compensated for such damages as he may suffer and subject to the posting of a sufficient bond by the party or person enjoined.

Sec. 10. ***Prohibition against temporary restraining order (TRO) and preliminary injunction.*** – Except the Supreme Court, no court can issue a TRO or writ of preliminary injunction against lawful actions of government agencies that enforce environmental laws or prevent violations thereof.

Sec. 11. ***Report on TEPO, EPO, TRO or preliminary injunction.*** **–** The judge shall report any action taken on a TEPO, EPO, TRO or a preliminary injunction, including its modification and dissolution, to the Supreme Court, through the Office of the Court Administrator, within 10 days from the action taken.

Sec. 12. ***Payment of filing and other legal fees.*** **–** The payment of filing and other legal fees by the plaintiff shall be deferred until after judgment unless the plaintiff is allowed to litigate as an indigent. It shall constitute a first lien on the judgment award.

For a citizen suit, the court shall defer the payment of filing and other legal fees that shall serve as first lien on the judgment award.

Sec. 13. ***Service of summons, orders and other court processes.*** **–** The summons, orders and other court processes may be served by the sheriff, his deputy or other proper court officer or for justifiable reasons, by the counsel or representative of the plaintiff or any suitable person authorized or deputized by the court issuing the summons.

Any private person who is authorized or deputized by the court to serve summons, orders and other court processes shall for that purpose be considered an officer of the court.

The summons shall be served on the defendant, together with a copy of an order informing all parties that they have 15 days from the filing of an answer, within which to avail of interrogatories to parties under Rule 25 of the Rules of Court and request for admission by adverse party under Rule 26, or at

RESOLUTION on A.M. No. 09-6-8-SC (continued)

their discretion, make use of depositions under Rule 23 or other measures under Rules 27 and 28.

Should personal and substituted service fail, summons by publication shall be allowed. In the case of juridical entities, summons by publication shall be done by indicating the names of the officers or their duly authorized representatives.

SEC. 14. ***Verified answer.*** **–** Within 15 days from receipt of summons, the defendant shall file a verified answer to the complaint and serve a copy thereof on the plaintiff. The defendant shall attach affidavits of witnesses, reports, studies of experts and all evidence in support of the defense.

Affirmative and special defenses not pleaded shall be deemed waived, except lack of jurisdiction.

Cross-claims and compulsory counterclaims not asserted shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within 10 days from service of the answer in which they are pleaded.

SEC. 15. ***Effect of failure to answer.*** **–** Should the defendant fail to answer the complaint within the period provided, the court shall declare defendant in default and upon motion of the plaintiff, shall receive evidence *ex parte* and render judgment based thereon and the reliefs prayed for.

RULE 3
PRE-TRIAL

SECTION 1. ***Notice of pre-trial.*** **–** Within two days from the filing of the answer to the counterclaim or cross-claim, if any, the branch clerk of court shall issue a notice of the pre-trial to be held not later than one month from the filing of the last pleading.

The court shall schedule the pre-trial and set as many pre-trial conferences as may be necessary within a period of two months counted from the date of the first pre-trial conference.

SEC. 2. ***Pre-trial brief.*** **–** At least three days before the pre-trial, the parties shall submit pre-trial briefs containing the following:

(a) A statement of their willingness to enter into an amicable settlement indicating the desired terms thereof or to submit the case to any of the alternative modes of dispute resolution;

(b) A summary of admitted facts and proposed stipulation of facts;

(c) The legal and factual issues to be tried or resolved. For each factual issue, the parties shall state all evidence to support their positions thereon. For each legal issue, parties shall state the applicable law and jurisprudence supporting their respective positions thereon;

(d) The documents or exhibits to be presented, including depositions, answers to interrogatories and answers to written request for admission by adverse party, stating the purpose thereof;

(e) A manifestation of their having availed of discovery procedures or their intention to avail themselves of referral to a commissioner or panel of experts;

(f) The number and names of the witnesses and the substance of their affidavits;

(g) Clarificatory questions from the parties; and

(h) List of cases arising out of the same facts pending before other courts or administrative agencies.

Failure to comply with the required contents of a pre-trial brief may be a ground for contempt.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

SEC. 3. ***Referral to mediation.*** **–** At the start of the pre-trial conference, the court shall inquire from the parties if they have settled the dispute; otherwise, the court shall immediately refer the parties or their counsel, if authorized by their clients, to the Philippine Mediation Center (PMC) unit for purposes of mediation. If not available, the court shall refer the case to the clerk of court or legal researcher for mediation.

Mediation must be conducted within a non-extendible period of 30 days from receipt of notice of referral to mediation.

The mediation report must be submitted within 10 days from the expiration of the 30-day period.

SEC. 4. ***Preliminary conference.*** **–** If mediation fails, the court will schedule the continuance of the pre-trial. Before the scheduled date of continuance, the court may refer the case to the branch clerk of court for a preliminary conference for the following purposes:

(a) To assist the parties in reaching a settlement;

(b) To mark the documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison with the originals;

(c) To ascertain from the parties the undisputed facts and admissions on the genuineness and due

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execution of the documents marked as exhibits;

(d) To require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25, and the answers to request for admissions by the adverse party under Rule 26;

(e) To require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28;

(f) To consider such other matters as may aid in its prompt disposition;

(g) To record the proceedings in the "Minutes of Preliminary Conference" to be signed by both parties or their counsels;

(h) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and

(i) To attach the minutes together with the marked exhibits before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

During the preliminary conference, the branch clerk of court shall also require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25 and the answers to request for admissions by the adverse party under Rule 26. The branch clerk of court may also require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28.

Sec. 5. ***Pre-trial conference; consent decree.*** **–** The judge shall put the parties and their counsels under oath, and they shall remain under oath in all pre-trial conferences.

The judge shall exert best efforts to persuade the parties to arrive at a settlement of the dispute. The judge may issue a consent decree approving the agreement between the parties in accordance with law, morals, public order and public policy to protect the right of the people to a balanced and healthful ecology.

Evidence not presented during the pre-trial, except newly-discovered evidence, shall be deemed waived.

Sec. 6. ***Failure to settle.*** **–** If there is no full settlement, the judge shall:

(a) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings and confirm the markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents;

(b) Determine if there are cases arising out of the same facts pending before other courts and order its consolidation if warranted;

(c) Determine if the pleadings are in order and if not, order the amendments if necessary;

(d) Determine if interlocutory issues are involved and resolve the same;

(e) Consider the adding or dropping of parties;

(f) Scrutinize every single allegation of the complaint, answer and other pleadings and attachments thereto, and the contents of documents and all other evidence identified and pre-marked during pre-trial in determining further admissions;

(g) Obtain admissions based on the affidavits of witnesses and evidence attached to the pleadings or submitted during pre-trial;

(h) Define and simplify the factual and legal issues arising from the pleadings and evidence. Uncontroverted issues and frivolous claims or defenses should be eliminated;

(i) Discuss the propriety of rendering a summary judgment or a judgment based on the pleadings, evidence and admissions made during pre-trial;

(j) Observe the Most Important Witness Rule in limiting the number of witnesses, determining the facts to be proved by each witness and fixing the approximate number of hours per witness;

(k) Encourage referral of the case to a trial by commissioner under Rule 32 of the Rules of Court or to a mediator or arbitrator under any of the alternative modes of dispute resolution governed by the Special Rules of Court on Alternative Dispute Resolution;

(l) Determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*); and

(m) Ask parties to agree on the specific trial dates for continuous trial, comply with the one-day examination of witness rule, adhere to the case flow chart determined by the court which shall contain the different stages of the proceedings

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up to the promulgation of the decision and use the time frame for each stage in setting the trial dates.

Sec. 7. ***Effect of failure to appear at pre-trial.*** **–** The court shall not dismiss the complaint, except upon repeated and unjustified failure of the plaintiff to appear. The dismissal shall be without prejudice, and the court may proceed with the counterclaim.

If the defendant fails to appear at the pre-trial, the court shall receive evidence *ex parte*.

Sec. 8. ***Minutes of pre-trial.*** **–** The minutes of each pre-trial conference shall contain matters taken up therein, more particularly admissions of facts and exhibits, and shall be signed by the parties and their counsel.

Sec. 9. ***Pre-trial order.*** **–** Within 10 days after the termination of the pre-trial, the court shall issue a pre-trial order setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, the evidence marked, the number of witnesses to be presented and the schedule of trial. Said order shall bind the parties, limit the trial to matters not disposed of and control the course of action during the trial.

Sec. 10. ***Efforts to settle.*** **–** The court shall endeavor to make the parties agree to compromise or settle in accordance with law at any stage of the proceedings before rendition of judgment.

Rule 4
Trial

Section 1. ***Continuous trial.*** **–** The judge shall conduct continuous trial which shall not exceed two months from the date of the issuance of the pre-trial order.

Before the expiration of the two-month period, the judge may ask the Supreme Court for the extension of the trial period for justifiable cause.

Sec. 2. ***Affidavits in lieu of direct examination.*** **–** In lieu of direct examination, affidavits marked during the pre-trial shall be presented as direct examination of affiants subject to cross-examination by the adverse party.

Sec. 3. ***One-day examination of witness rule.*** **–** The court shall strictly adhere to the rule that a witness has to be fully examined in one day, subject to the court's discretion of extending the examination for justifiable reason. After the presentation of the last witness, only oral offer of evidence shall be allowed, and the opposing party shall immediately interpose his objections. The judge shall forthwith rule on the offer of evidence in open court.

Sec. 4. ***Submission of case for decision; filing of memoranda.*** **–** After the last party has rested its case, the court shall issue an order submitting the case for decision.

The court may require the parties to submit their respective memoranda, if possible in electronic form, within a non-extendible period of 30 days from the date the case is submitted for decision.

The court shall have a period of 60 days to decide the case from the date the case is submitted for decision.

Sec. 5. ***Period to try and decide.*** **–** The court shall have a period of one year from the filing of the complaint to try and decide the case. Before the expiration of the one-year period, the court may petition the Supreme Court for the extension of the period for justifiable cause.

The court shall prioritize the adjudication of environmental cases.

Rule 5
Judgment and Execution

Section 1. ***Reliefs in a citizen suit.*** **–** If warranted, the court may grant to the plaintiff proper reliefs which shall include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. It may also require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or to contribute to a special trust fund for that purpose subject to the control of the court.

Sec. 2. ***Judgment not stayed by appeal.*** **–** Any judgment directing the performance of acts for the protection, preservation or rehabilitation of the environment shall be executory pending appeal unless restrained by the appellate court.

Sec. 3. ***Permanent EPO; writ of continuing mandamus.*** **–** In the judgment, the court may convert the TEPO to a permanent EPO or issue a writ of continuing *mandamus* directing the performance of acts which shall be effective until the judgment is fully satisfied.

The court may, by itself or through the appropriate government agency, monitor the execution of the judgment and require the party concerned to submit written reports on a quarterly basis or sooner as may be necessary, detailing the progress of the execution and satisfaction of the judgment. The other party may, at its option, submit

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its comments or observations on the execution of the judgment.

Sec. 4. ***Monitoring of compliance with judgment and orders of the court by a commissioner.*** **–** The court may *motu proprio*, or upon motion of the prevailing party, order that the enforcement of the judgment or order be referred to a commissioner to be appointed by the court. The commissioner shall file with the court written progress reports on a quarterly basis or more frequently when necessary.

Sec. 5. ***Return of writ of execution.*** **–** The process of execution shall terminate upon a sufficient showing that the decision or order has been implemented to the satisfaction of the court in accordance with Section 14, Rule 39 of the Rules of Court.

Rule 6
Strategic Lawsuit Against Public Participation

Section 1. ***Strategic Lawsuit Against Public Participation (SLAPP).*** **–** A legal action filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP and shall be governed by these Rules.

Sec. 2. ***SLAPP as a defense; how alleged.*** **–** In a SLAPP filed against a person involved in the enforcement of environmental laws, protection of the environment, or assertion of environmental rights, the defendant may file an answer interposing as a defense that the case is a SLAPP and shall be supported by documents, affidavits, papers and other evidence; and, by way of counterclaim, pray for damages, attorney's fees and costs of suit.

The court shall direct the plaintiff or adverse party to file an opposition showing the suit is not a SLAPP, attaching evidence in support thereof, within a non-extendible period of five days from receipt of notice that an answer has been filed.

The defense of a SLAPP shall be set for hearing by the court after issuance of the order to file an opposition within 15 days from filing of the comment or the lapse of the period.

Sec. 3. ***Summary hearing.*** **–** The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP and is a valid claim.

Sec. 4. ***Resolution of the defense of a SLAPP.*** **–** The affirmative defense of a SLAPP shall be resolved within 30 days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

Part III
Special Civil Actions

Rule 7
Writ of Kalikasan

Section 1. ***Nature of the writ.*** **–** The writ is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

Sec. 2. ***Contents of the petition.*** **–** The verified petition shall contain the following:

(a) The personal circumstances of the petitioner;

(b) The name and personal circumstances of the respondent or if the name and personal circumstances are unknown and uncertain, the respondent may be described by an assumed appellation;

(c) The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces;

(d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence;

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(e) The certification of petitioner under oath that: (1) petitioner has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and no such other action or claim is pending therein; (2) if there is such other pending action or claim, a complete statement of its present status; (3) if petitioner should learn that the same or similar action or claim has been filed or is pending, petitioner shall report to the court that fact within five days therefrom; and

(f) The reliefs prayed for which may include a prayer for the issuance of a TEPO.

Sec. 3. ***Where to file.*** **–** The petition shall be filed with the Supreme Court or with any of the stations of the Court of Appeals.

Sec. 4. ***No docket fees.*** **–** The petitioner shall be exempt from the payment of docket fees.

Sec. 5. ***Issuance of the writ.*** **–** Within three days from the date of filing of the petition, if the petition is sufficient in form and substance, the court shall give an order: (a) issuing the writ; and (b) requiring the respondent to file a verified return as provided in Section 8 of this Rule. The clerk of court shall forthwith issue the writ under the seal of the court including the issuance of a cease and desist order and other temporary reliefs effective until further order.

Sec. 6. ***How the writ is served.*** **–** The writ shall be served upon the respondent by a court officer or any person deputized by the court, who shall retain a copy on which to make a return of service. In case the writ cannot be served personally, the rule on substituted service shall apply.

Sec. 7. ***Penalty for refusing to issue or serve the writ.*** **–** A clerk of court who unduly delays or refuses to issue the writ after its allowance or a court officer or deputized person who unduly delays or refuses to serve the same shall be punished by the court for contempt without prejudice to other civil, criminal or administrative actions.

Sec. 8. ***Return of respondent; contents.*** **–** Within a non-extendible period of 10 days after service of the writ, the respondent shall file a verified return which shall contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

All defenses not raised in the return shall be deemed waived.

The return shall include affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence**,** in support of the defense of the respondent.

A general denial of allegations in the petition shall be considered as an admission thereof.

Sec. 9. ***Prohibited pleadings and motions.*****–** The following pleadings and motions are prohibited:

(a) Motion to dismiss;

(b) Motion for extension of time to file return;

(c) Motion for postponement;

(d) Motion for a bill of particulars;

(e) Counterclaim or cross-claim;

(f) Third-party complaint;

(g) Reply; and

(h) Motion to declare respondent in default.

Sec. 10. ***Effect of failure to file return.*** **–** In case the respondent fails to file a return, the court shall proceed to hear the petition *ex parte*.

Sec. 11. ***Hearing.*** **–** Upon receipt of the return of the respondent, the court may call a preliminary conference to simplify the issues, determine the possibility of obtaining stipulations or admissions from the parties, and set the petition for hearing.

The hearing including the preliminary conference shall not extend beyond 60 days and shall be given the same priority as petitions for the writs of *habeas corpus, amparo* and *habeas data.*

Sec. 12. ***Discovery Measures.*** **–** A party may file a verified motion for the following reliefs:

(a) *Ocular Inspection; order*. – The motion must show that an ocular inspection order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces. It shall state in detail the place or places to be inspected. It shall be supported by affidavits of witnesses having personal knowledge of the violation or threatened violation of environmental law.

After hearing, the court may order any person in possession or control of a designated land or other property to permit entry for the

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purpose of inspecting or photographing the property or any relevant object or operation thereon.

The order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties.

(b) *Production or inspection of documents or things; order*. – The motion must show that a production order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

After hearing, the court may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The production order shall specify the person or persons authorized to make the production and the date, time, place and manner of making the inspection or production and may prescribe other conditions to protect the constitutional rights of all parties.

Sec. 13. ***Contempt.*** **–** The court may after hearing punish the respondent who refuses or unduly delays the filing of a return, or who makes a false return, or any person who disobeys or resists a lawful process or order of the court for indirect contempt under Rule 71 of the Rules of Court.

Sec. 14. ***Submission of case for decision; filing of memoranda.*** **–** After hearing, the court shall issue an order submitting the case for decision. The court may require the filing of memoranda and if possible, in its electronic form, within a non-extendible period of 30 days from the date the petition is submitted for decision.

Sec. 15. ***Judgment.*** **–** Within 60 days from the time the petition is submitted for decision, the court shall render judgment granting or denying the privilege of the writ of *kalikasan*.

The reliefs that may be granted under the writ are the following:

(a) Directing respondent to permanently cease and desist from committing acts or neglecting the performance of a duty in violation of environmental laws resulting in environmental destruction or damage;

(b) Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;

(c) Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;

(d) Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and

(e) Such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment, except the award of damages to individual petitioners.

Sec. 16. ***Appeal.*** **–** Within 15 days from the date of notice of the adverse judgment or denial of motion for reconsideration, any party may appeal to the Supreme Court under Rule 45 of the Rules of Court. The appeal may raise questions of fact.

Sec. 17. ***Institution of separate actions.*** **–** The filing of a petition for the issuance of the writ of *kalikasan* shall not preclude the filing of separate civil, criminal or administrative actions.

Rule 8
Writ of Continuing Mandamus

Section 1. ***Petition for continuing mandamus.*** **–** When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition

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shall also contain a sworn certification of non-forum shopping.

Sec. 2. ***Where to file the petition.*** **–** The petition shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of Appeals or the Supreme Court.

Sec. 3. ***No docket fees.*** **–** The petitioner shall be exempt from the payment of docket fees.

Sec. 4. ***Order to comment.*** **–** If the petition is sufficient in form and substance, the court shall issue the writ and require the respondent to comment on the petition within 10 days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

Sec. 5. ***Expediting proceedings; TEPO.*** **–** The court in which the petition is filed may issue such orders to expedite the proceedings, and it may also grant a TEPO for the preservation of the rights of the parties pending such proceedings.

Sec. 6. ***Proceedings after comment is filed.*** **–** After the comment is filed or the time for the filing thereof has expired, the court may hear the case which shall be summary in nature or require the parties to submit memoranda. The petition shall be resolved without delay within 60 days from the date of the submission of the petition for resolution.

Sec. 7. ***Judgment.*** **–** If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

Sec. 8. ***Return of the writ.*** **–** The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

Part IV
Criminal Procedure

Rule 9
Prosecution of Offenses

Section 1. ***Who may file.*** **–** Any offended party, peace officer or any public officer charged with the enforcement of an environmental law may file a complaint before the proper officer in accordance with the Rules of Court.

Sec. 2. ***Filing of the information.*** **–** An information, charging a person with a violation of an environmental law and subscribed by the prosecutor, shall be filed with the court.

Sec. 3. ***Special prosecutor.*** **–** In criminal cases, where there is no private offended party, a counsel whose services are offered by any person or organization may be allowed by the court as special prosecutor, with the consent of and subject to the control and supervision of the public prosecutor.

Rule 10
Prosecution of Civil Actions

Section 1. ***Institution of criminal and civil actions.*** **–** When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged, shall be deemed instituted with the criminal action unless the complainant waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

Unless the civil action has been instituted prior to the criminal action, the reservation of the right to institute separately the civil action shall be made during arraignment.

In case civil liability is imposed or damages are awarded, the filing and other legal fees shall be imposed on said award in accordance with Rule 141 of the Rules of Court, and the fees shall constitute a first lien on the judgment award. The damages awarded in cases where there is no private offended party, less the filing fees, shall accrue to the funds of the agency charged with the implementation of the environmental law violated. The award shall be used for the restoration and rehabilitation of the environment adversely affected.

Rule 11
Arrest

Section 1. ***Arrest without warrant; when lawful.*** **–** A peace officer or an individual deputized by the proper government agency may, without a warrant, arrest a person:

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(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense; or

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

Individuals deputized by the proper government agency who are enforcing environmental laws shall enjoy the presumption of regularity under Section 3(m), Rule 131 of the Rules of Court when effecting arrests for violations of environmental laws.

Sec. 2. ***Warrant of arrest.*** **–** All warrants of arrest issued by the court shall be accompanied by a certified true copy of the information filed with the issuing court.

Rule 12
Custody and Disposition of Seized Items, Equipment, Paraphernalia, Conveyances and Instruments

Section 1. ***Custody and disposition of seized items.–*** The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.

Sec. 2. ***Procedure.*** **–** In the absence of applicable laws or rules promulgated by the concerned government agency, the following procedure shall be observed:

(a) The apprehending officer having initial custody and control of the seized items, equipment, paraphernalia, conveyances and instruments shall physically inventory and whenever practicable, photograph the same in the presence of the person from whom such items were seized.

(b) Thereafter, the apprehending officer shall submit to the issuing court the return of the search warrant within five days from date of seizure or in case of warrantless arrest, submit within five days from date of seizure, the inventory report, compliance report, photographs, representative samples and other pertinent documents to the public prosecutor for appropriate action.

(c) Upon motion by any interested party, the court may direct the auction sale of seized items, equipment, paraphernalia, tools or instruments of the crime. The court shall, after hearing, fix the minimum bid price based on the recommendation of the concerned government agency. The sheriff shall conduct the auction.

(d) The auction sale shall be with notice to the accused, the person from whom the items were seized, or the owner thereof and the concerned government agency.

(e) The notice of auction shall be posted in three conspicuous places in the city or municipality where the items, equipment, paraphernalia, tools or instruments of the crime were seized.

(f) The proceeds shall be held in trust and deposited with the government depository bank for disposition according to the judgment.

Rule 13
Provisional Remedies

Section 1. ***Attachment in environmental cases.*** **–** The provisional remedy of attachment under Rule 127 of the Rules of Court may be availed of in environmental cases.

Sec. 2. ***Environmental Protection Order (EPO); Temporary Environmental Protection Order (TEPO) in criminal cases.*** **–** The procedure for and issuance of EPO and TEPO shall be governed by Rule 2 of these Rules.

Rule 14
Bail

Section 1. ***Bail, where filed.*** **–** Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge or municipal circuit trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein. If the court grants bail, the court may issue a hold-departure order in appropriate cases.

Sec. 2. ***Duties of the court.*** **–** Before granting the application for bail, the judge must read the information in a language known to and understood by the accused and require the accused to sign a written undertaking, as follows:

(a) To appear before the court that issued the warrant of arrest for arraignment purposes on the date scheduled, and if the accused fails to appear without justification on the date of arraignment, accused waives the reading of the information and authorizes the court to enter a plea of not guilty on behalf of the accused and to set the case for trial;

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(b) To appear whenever required by the court where the case is pending; and

(c) To waive the right of the accused to be present at the trial, and upon failure of the accused to appear without justification and despite due notice, the trial may proceed *in absentia*.

RULE 15

ARRAIGNMENT AND PLEA

SECTION 1. ***Arraignment.*** **–** The court shall set the arraignment of the accused within 15 days from the time it acquires jurisdiction over the accused, with notice to the public prosecutor and offended party or concerned government agency that it will entertain plea-bargaining on the date of the arraignment.

SEC. 2. ***Plea-bargaining.*** **–** On the scheduled date of arraignment, the court shall consider plea-bargaining arrangements. Where the prosecution and offended party or concerned government agency agree to the plea offered by the accused, the court shall:

(a) Issue an order which contains the plea-bargaining arrived at;

(b) Proceed to receive evidence on the civil aspect of the case, if any; and

(c) Render and promulgate judgment of conviction, including the civil liability for damages.

RULE 16
PRE-TRIAL

SECTION 1. ***Setting of pre-trial conference.*** **–** After the arraignment, the court shall set the pre-trial conference within 30 days. It may refer the case to the branch clerk of court, if warranted, for a preliminary conference to be set at least three days prior to the pre-trial.

SEC. 2. ***Preliminary conference.*** **–** The preliminary conference shall be for the following purposes:

(a) To assist the parties in reaching a settlement of the civil aspect of the case;

(b) To mark the documents to be presented as exhibits;

(c) To attach copies thereof to the records after comparison with the originals;

(d) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of documents marked as exhibits;

(e) To consider such other matters as may aid in the prompt disposition of the case;

(f) To record the proceedings during the preliminary conference in the Minutes of Preliminary Conference to be signed by the parties and counsel;

(g) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and

(h) To attach the Minutes and marked exhibits to the case record before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

SEC. 3. ***Pre-trial duty of the judge.*** **–** During the pre-trial, the court shall:

(a) Place the parties and their counsels under oath;

(b) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings, confirm markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents, and list object and testimonial evidence;

(c) Scrutinize the information and the statements in the affidavits and other documents which form part of the record of the preliminary investigation together with other documents identified and marked as exhibits to determine further admissions of facts as to:

i. The court's territorial jurisdiction relative to the offense(s) charged;

ii. Qualification of expert witnesses; and

iii. Amount of damages;

(d) Define factual and legal issues;

(e) Ask parties to agree on the specific trial dates and adhere to the flow chart determined by the court which shall contain the time frames for the different stages of the proceeding up to promulgation of decision;

(f) Require the parties to submit to the branch clerk of court the names, addresses and contact numbers of witnesses that need to be summoned by *subpoena*; and

(g) Consider modification of order of trial if the

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accused admits the charge but interposes a lawful defense.

Sec. 4. ***Manner of questioning.*** **–** All questions or statements must be directed to the court.

Sec. 5. ***Agreements or admissions.*** **–** All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Section 1, Rule 118 of the Rules of Court shall be approved by the court.

Sec. 6. ***Record of proceedings.*** **–** All proceedings during the pre-trial shall be recorded, the transcripts prepared and the minutes signed by the parties or their counsels.

Sec. 7. ***Pre-trial order.*** **—** The court shall issue a pre-trial order within 10 days after the termination of the pre-trial, setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, evidence marked, the number of witnesses to be presented and the schedule of trial. The order shall bind the parties and control the course of action during the trial.

Rule 17
Trial

Section 1. ***Continuous trial.*** **–** The court shall endeavor to conduct continuous trial which shall not exceed three months from the date of the issuance of the pre-trial order.

Sec. 2. ***Affidavit in lieu of direct examination.*** **–** Affidavit in lieu of direct examination shall be used, subject to cross-examination and the right to object to inadmissible portions of the affidavit.

Sec. 3. ***Submission of memoranda.*** **–** The court may require the parties to submit their respective memoranda and if possible, in electronic form, within a non-extendible period of 30 days from the date the case is submitted for decision.

With or without any memoranda filed, the court shall have a period of 60 days to decide the case counted from the last day of the 30-day period to file the memoranda.

Sec. 4. ***Disposition period.*** **–** The court shall dispose the case within a period of 10 months from the date of arraignment.

Sec. 5. ***Pro bono lawyers.*** **–** If the accused cannot afford the services of counsel or there is no available public attorney, the court shall require the Integrated Bar of the Philippines to provide *pro bono* lawyers for the accused.

Rule 18
Subsidiary Liability

Section 1. ***Subsidiary liability.*** – In case of conviction of the accused and subsidiary liability is allowed by law, the court may, by motion of the person entitled to recover under judgment, enforce such subsidiary liability against a person or corporation subsidiarily liable under Article 102 and Article 103 of the Revised Penal Code.

Rule 19
Strategic Lawsuit Against Public Participation in Criminal Cases

Section 1. ***Motion to dismiss.*** **–** Upon the filing of an information in court and before arraignment, the accused may file a motion to dismiss on the ground that the criminal action is a SLAPP.

Sec. 2. ***Summary hearing.*** **–** The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all the available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP.

Sec. 3. ***Resolution.*** **–** The court shall grant the motion if the accused establishes in the summary hearing that the criminal case has been filed with intent to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

If the court denies the motion, the court shall immediately proceed with the arraignment of the accused.

Part V
Evidence

Rule 20
Precautionary Principle

Section 1. ***Applicability.*** **–** When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.

RESOLUTION on A.M. No. 09-6-8-SC (continued)

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.

Sec. 2. ***Standards for application.*** **–** In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

Rule 21
Documentary Evidence

Section 1. ***Photographic, video and similar evidence.*** **–** Photographs, videos and similar evidence of events, acts, transactions of wildlife, wildlife by-products or derivatives, forest products or mineral resources subject of a case shall be admissible when authenticated by the person who took the same, by some other person present when said evidence was taken, or by any other person competent to testify on the accuracy thereof.

Sec. 2. ***Entries in official records.*** **–** Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

Rule 22
Final Provisions

Section 1. ***Effectivity.*** **–** These Rules shall take effect within 15 days following publication once in a newspaper of general circulation.

Sec. 2. ***Application of the Rules of Court.*** **–** The Rules of Court shall apply in a suppletory manner, except as otherwise provided herein.

Effective: April 29, 2010.

RESOLUTION of the COURT En Banc dated April 27, 2010, A.M. No. 99-1-04-SC

GRANTING INCENTIVES TO JUDGES WHO ARE GIVEN ADDITIONAL ASSIGNMENTS OF HEARING AND DECIDING CASES OF OTHER BRANCHES OF THEIR COURTS OR OF OTHER COURTS OF THE SAME LEVEL

AMENDED RESOLUTION

WHEREAS, vacancy rate in the lower courts is considerably high causing delay in the administration of justice;

WHEREAS, there are courts with numerous cases requiring immediate attention;

WHEREAS, the services of judges in branches/ stations adjacent to these courts are required to attend to the cases pending thereat;

WHEREAS, most of these judges are overworked due to the increase in their caseloads;

WHEREAS, the situation usually takes a toll on their physical and mental health, disrupt family relations, and exposes them to hazardous conditions; and

WHEREAS, there is a need to augment their allowances if only to alleviate their situation.

NOW, THEREFORE, the Court hereby amends its En Banc Resolution of January 17, 2006:

Effective immediately, Judges of Regional Trial Courts (RTC), Shari'a District Courts (SDC), Metropolitan Trial Courts (MeTC), Municipal Trial Courts in Cities (MTCC), Municipal Trial Courts (MTC), Municipal Circuit Trial Courts (MCTC), and Shari'a Circuit Courts (SCC) who are given additional assignment of hearing and deciding cases of other branches of the RTC, SDC, MeTC, or MTCC, or of other MTC, MCTC, or SCC, as the case may be, shall be entitled to an additional expense allowance at the rate of **One Thousand Pesos (P1,000)** a day for every day rendered in the other branch or branches but in no case to exceed **Eight Thousand Pesos (P8,000) a month, if assigned to an additional sala, or Twelve Thousand Pesos (P12,000)** a month, **if assigned to two or more salas.** However, should the designation be limited to decision writing, judges shall be entitled only to the additional expense allowance of **Five Hundred Pesos (P500)** for every case decided, provided that the disposition of consolidated cases shall be considered only as a single decision.

In addition to the foregoing, such judges shall be given a monthly judicial incentive allowance of Five Hundred Pesos (P500) for every additional branch that is assigned to them.

The allowances herein granted are chargeable against the savings of the lower courts or the Judiciary Development Fund (JDF), and exclusive of the transportation and travel allowances prescribed by Administrative Circular No. 15-2005 dated March 22, 2005 as applicable and other similar benefits as may be provided for by law or Court issuances.

The concerned judges are hereby reminded to give priority to the cases in their official station. They shall hold trial or conduct proceedings preferably at least

(Continued on next page)

RESOLUTION on A.M. No. 99-1-04-SC (continued)

thrice a week in their official stations. Further, in no instance shall they be designated to handle cases in more than three other salas. However, they may still be assigned by the Supreme Court to handle additional cases in a fourth or fifth sala, depending on the caseloads in their station and other assigned courts.

The Office of the Court Administrator is reminded to refrain from accommodating requests for assisting judges to try and decide cases which accumulated for reasons attributable to the incumbent judge.

This Resolution modifies and amends En Banc Resolution dated January 17, 2006 and provisions of Court issuances inconsistent herewith.

This Resolution shall immediately take effect.

Issued this 27th day of April 2010.

(Sgd.) PUNO, *CJ*, CARPIO, CORONA, CARPIO MORALES, VELASCO, JR., NACHURA, LEONARDO-DE CASTRO, BRION, PERALTA, BERSAMIN, DEL CASTILLO, ABAD, VILLARAMA, JR., PEREZ, MENDOZA, *JJ.*

RESOLUTION of the COURT En Banc, dated May 4, 2010 on A.M. No. 10-4-29-SC

THE 2010 RULES OF THE PRESIDENTIAL ELECTORAL TRIBUNAL

Title and Construction

Rule 1. ***Title.*** – These Rules shall be known and cited as *The 2010 Rules of the Presidential Electoral Tribunal.* (R1a)

Rule 2. ***Definition of Terms.*** – When used in these Rules, the following terms shall mean:

a) *Tribunal* – the Presidential Electoral Tribunal, sitting *en banc* or in Divisions;

b) *Automated Election System or AES* – an election system using appropriate technology in voting, counting, consolidating, canvassing, transmitting election results, and other electoral processes;

c) *Precinct Count Optical Scan or PCOS* – a technology using an optical ballot scanner, located in every precinct, that scans or reads paper ballots that voters mark by hand and are inserted in the scanner to be counted;

d) *Official ballot* – the paper ballot with the pre-printed names of all candidates and with ovals corresponding to each of the names printed. The ovals are the spaces where voters express their choice by shading with a marking pen;

e) *Picture image* – of the ballot the image of the ballot that the PCOS machine captures at the time the voter feeds the ballot into it, which image is stored in a memory or removable data storage device attached to the PCOS machines;

f) *Election Returns* – the document showing the date of the election, the province, city, municipality and the precinct in which it is held, and the votes in figures for each candidate in a precinct or clustered precincts;

g) *Electronic Election Returns* – copies of the election returns in electronic form generated by the PCOS machine and electronically transmitted to the Municipal or City Board of Canvassers for the official canvass, to the COMELEC Back-Up Server, and to the Server for the dominant majority and dominant minority parties, the citizens' arm authorized by the COMELEC to conduct a parallel count, and the Kapisanan ng mga Brodkasters sa Pilipinas or KBP;

h) *Printed Election Returns* – copies of the election returns printed by the PCOS machine on paper and authenticated by the manual signatures and thumbmarks of the members of the Board of Election Inspectors (BEI);

i) *Electronic transmission* – the act of conveying data in electronic form from one location to another;

j) *Canvass proceedings* – the consolidation of precinct election results for the Offices of the President and Vice President at the municipal, city, or district level; district election results at the municipal or city level; municipal or city election results at the provincial level; and provincial election results at the national level, specifically Congress, including the formal proclamation of the winners in the elections;

k) *Consolidation Machine* – the machine used at the canvass proceedings to consolidate precinct results, municipal and city results, or provincial results for purposes of getting the total votes of all candidates for the Offices of the President and Vice President;

l) *Statement of Votes by Precinct, Municipality, City, District, Province, or Overseas Absentee Voting (OAV) Station* – a document in electronic and in printed form generated by the canvassing or consolidating machines or computers during the canvass proceedings of the votes obtained by the candidates for the Offices of the President and Vice President in each precinct, municipality, city, district, province, or OAV Station;

m) *City, municipal, district, or provincial certificate of canvass*

RESOLUTION on A.M. No. 10-4-29-SC (continued)

– a document in electronic and in printed form containing the total votes in figures obtained by each candidate for the Offices of the President and Vice President in a city, municipality, district, or province, the electronic form of which is the official canvass result and is the result electronically transmitted to Congress;

n) *Certificate of Canvass and Proclamation* – the official printed document that contains the names of the candidates for the Offices of the President and Vice President who obtain the highest number of votes and certifies to their proclamation as winners;

o) *Data storage device* – the device where electronic documents are stored and from which such documents may be obtained when necessary to verify the accuracy and correctness of election data; it includes the back-up storage device in which authentic electronic copies of the data are also stored;

p) *Audit log* – the document that contains the list of all activities performed by the PCOS machines from the time it was switched on until the time it was turned off; and

q) *Electronic document* – information or the representation of information, data, figures, symbols, or other modes of written expression, described or however represented, by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved, or produced electronically and includes digitally signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic document.

For purposes of these Rules, electronic documents refer to either the picture image of the ballots and electronic copies of the election returns, of statements of votes, of certificates of canvass, and of the other electronic data relative to the processing done by the PCOS machines and the various consolidation machines. (n)

Rule 3. ***Construction.*** **–** These Rules shall be liberally construed to achieve a just, expeditious, and inexpensive determination and disposition of every contest before the Tribunal. (R2)

The Tribunal

Rule 4. ***Meeting, quorum and Divisions.*** **–** The Presidential Electoral Tribunal shall meet on such days and hours as it may designate at the call of the Chairman or of a majority of its Members. The presence of the majority of the Members shall be necessary to constitute a quorum. In the absence of the Chairman, the next senior Member shall preside.

In the absence of a quorum, the Members present, who shall not be less than five, may constitute themselves into an executive body whose actions shall be subject to confirmation by the Tribunal at its next regular meeting.

The Tribunal may constitute itself into Divisions for the purpose of allocating and distributing its workload. Each Division shall act on such matters as may be assigned to it by the Tribunal. (R3)

Rule 5. ***Place of meetings.*** **–** The Tribunal or its Divisions shall meet in the Session Hall of the Supreme Court or at such other place as may be designated. (R4)

Rule 6. ***Control and supervision.*** **–** The Tribunal shall have exclusive control and supervision of all matters pertaining to its operation. (R5)

Rule 7. ***Express and implied powers.*** **–** The Tribunal shall exercise all powers expressly vested in it by the Constitution or by law, and such other powers as may be inherent, necessary or incidental thereto for the accomplishment of its purposes and functions. (R6)

Rule 8. ***Inherent powers.*** **–** The Tribunal shall have the following inherent powers:

(a) Preserve and enforce order in proceedings before it or before any of its Divisions or officials acting under its authority;

(b) Administer or cause to be administered oaths in any contest before it, and in any other matter where it may be necessary in the exercise of its powers;

(c) Compel the attendance of witnesses and the production of evidence in any contest before it;

(d) Compel obedience to its decisions, resolutions, orders and processes;

(e) Control its processes and amend its decisions, resolutions or orders to make them conformable to law and justice;

(f) Authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original copy thereof, and to restore and supply deficiencies in its records and proceedings; and

(g) Promulgate its own rules of procedure and amend or revise the same. (R7)

Rule 9. ***Powers and duties of the Chairman.*** **–** The Chairman shall have the following powers:

(a) Issue calls for the sessions of the Tribunal;

(Continued on next page)

RESOLUTION on A.M. No. 10-4-29-SC (continued)

(b) Preside at the sessions of the Tribunal;

(c) Preserve order and decorum during the sessions and for that purpose take such steps as may be convenient or as the Tribunal may direct;

(d) Enforce the decisions, resolutions and orders of the Tribunal;

(e) With the concurrence of the Tribunal and in accordance with the provisions of the Civil Service Law, appoint the employees of the Tribunal and impose disciplinary sanctions on them, including dismissal from the service. The confidential employees of every Member shall serve at hs pleasure and in no case beyond his own term;

(f) Exercise administrative supervision over the personnel of the Tribunal, including the Office of the Clerk of the Tribunal; and

(g) Perform such other functions and acts as may be necessary or appropriate to ensure the efficiency of the Tribunal. (R8)

Rule 10. ***Administrative Staff of the Tribunal.*** – The Tribunal shall have a Clerk and a Deputy Clerk. Unless the Tribunal provides otherwise, the administrative staff of the Tribunal shall be composed of the following:

(a) Canvass Board Division

(b) Legal Division

(c) Information Systems and Judicial Records Management Division

(d) Personnel Division

(e) Finance and Budget Division

(f) Accounting Division

(g) Cash Division. (R9)

Rule 11. ***The Clerk of the Tribunal.*** – The Tribunal may designate the Clerk of the Supreme Court as the Clerk of the Tribunal who shall perform the following duties:

(a) Receive all pleadings and other documents properly presented, indicating on each document the date and time of its filing, and furnishing each Member a copy;

(b) Keep a separate docket wherein shall be entered in chronological order election contests, *quo warranto* cases and proceedings had therein;

(c) Attend meetings or sessions of the Tribunal and keep minutes of the meetings or sessions which shall be a clear and succinct account of all its proceedings;

(d) Certify under the Seal of the Tribunal its decisions, resolutions, orders and notices;

(e) Keep a judgment book containing a copy of each decision, final order or resolution rendered by the Tribunal in the order of their dates, and a Book of Entries of Judgment containing in chronological order entries of the dispositive portions of all decisions, final orders or resolutions of the Tribunal;

(f) Implement the decisions, resolutions, orders and processes issued by the Tribunal;

(g) Keep and secure all scanned ballots stored in their ballot boxes, the minutes of voting and counting of votes, the printed election returns, the statements of votes (SOVs), the certificates of canvass (COCs), the certificate of canvass and proclamation (COCP) and other documents used in the counting, canvassing, and consolidation of votes as well as their equivalent electronic documents saved and stored in accordance with the election rules;

(h) Keep an inventory and have the custody of the Seal and other public property belonging to or assigned for the use of the Tribunal;

(i) Keep an account of the funds set aside for the expenses of the Tribunal, as well as the funds received and disbursed relative to the cases; and

(j) Keep such other books and perform such other duties as are prescribed by law for the Clerk of the Supreme Court or as the Tribunal may direct.

The Deputy Clerk shall assist the Clerk of the Tribunal and shall perform such other duties and functions as may be assigned to him by the latter. (R10)

Rule 12. ***The Seal.*** – The Seal of the Tribunal shall be circular in shape and shall contain in the upper part of the words "Presidential Electoral Tribunal," in the center the coat of arms of the Government of the Philippines and at the base the name "Republic of the Philippines."

The Seal of the Tribunal shall be affixed to all decisions, rulings, resolutions, orders or notices of the Tribunal, certified copies of official records and such other documents which the Tribunal may require to be sealed. (R11)

Election Contests

Rule 13. ***Jurisdiction.*** – The Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice President of the Philippines. (R12)

RESOLUTION on A.M. No. 10-4-29-SC (continued)

Rule 14. ***How initiated.*** – An election contest is initiated by the filing of an election protest or a petition for *quo warranto* against the President or Vice President. An election protest shall not include a petition for *quo warranto*. A petition for *quo warranto* shall not include an election protest. (R13)

Rule 15. ***Election protest.*** – The registered candidate for resident or Vice President of the Philippines who received the second or third highest number of votes may contest the election of the President or Vice President, as the case may be, by filing a verified election protest with the Clerk of the Presidential Electoral Tribunal within 30 days after the proclamation of the winner. (R14)

Rule 16. ***Quo warranto.*** – A verified petition for *quo warranto* contesting the election of the President or Vice-President on the ground of ineligibility or disloyalty to the Republic of the Philippines may be filed by any registered voter who has voted in the election concerned within 10 days after the proclamation of the winner. (R16)

Rule 17. ***Contents of the protest or petition.*** –
(A) An election protest or petition for *quo warranto* shall commonly state the following facts:

(a) the position involved;

(b) the date of proclamation; and

(c) the number of votes credited to the parties *per* the proclamation.

(B) A *quo warranto* petition shall also state;

(a) the facts giving the petitioner standing to file the petition;

(b) the legal requirements for the office and the disqualifications prescribed by law;

(c) the protestee's ground for ineligibility or the specific acts of disloyalty to the Republic of the Philippines.

(C) An election protest shall also state:

(a) that the protestant was a candidate who had duly filed a certificate of candidacy and had been voted for the same office.

(b) the total number of precincts of the region, province, or city concerned;

(c) the protested precincts and votes of the parties to the protest in such precincts per the Statement of Votes By Precinct or, if the votes of the parties are not specified, an explanation why the votes are not specified; and

(d) a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies, or irregularities in the protested precincts. (n)

Rule 18. ***Extensions of time.*** – The periods provided in Rules 15 and 16 above are jurisdictional and cannot be extended. (R17a)

Rule 19. ***Damages.*** – Actual or compensatory, moral and exemplary damages as provided by law may be claimed in electoral protests or *quo warranto* proceedings when warranted. (R18)

Rule 20. ***Petitions to be filed with the Tribunal.*** – Election protests and petitions for *quo warranto* may be filed with the Office of the Clerk of the Tribunal in 18 legible copies. The Clerk shall indicate on the petition the date and hour of receipt. (R19)

Rule 21. ***Summary dismissal of election contest.*** – An election protest or petition for *quo warranto* may be summarily dismissed by the Tribunal without requiring the protestee or respondent to answer if, *inter alia:*

(a) the protest or petition is insufficient in form and substance;

(b) the protest or petition is filed beyond the periods provided in Rules 15 and 16;

(c) the filing fee is not paid within the periods provided for in these Rules;

(d) the cash deposit or the first Two Hundred Thousand Pesos (P200,000) is not paid within 10 days after the filing of the protest; and

(e) the protest or petition or copies and their annexes filed with the Tribunal are not clearly legible. (R20a)

Summons, Answers and Counter-Protests

Rule 22. ***Summons.*** – If the election protest or the petition for *quo warranto* is not summarily dismissed in accordance with the immediately preceding Rule, the Clerk of the Tribunal shall issue the corresponding summons to the protestee or respondent together with a copy of the protest or petition requiring him to file an answer within 10 days from receipt of the summons. (R21)

Rule 23. ***Answer.*** –The answer shall be verified and may set forth special and affirmative defenses. The protestee or respondent may incorporate in his answer a counter-protest or counterclaim which shall be filed with the Clerk of the Tribunal. The answer must be filed within 10 days from receipt of summons

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RESOLUTION on A.M. No. 10-4-29-SC (continued)

in 18 clearly legible copies with proof of service of a copy upon the protestant or petitioner. (R22)

Rule 24. ***Counter-protest***. – A counter-protest must be verified and filed within 10 days from receipt of the summons and the protest. The counter-protestee shall answer the counter-protest within 10 days from receipt of a copy thereof. (R23)

Rule 25. ***Motion to dismiss***. – No motion to dismiss shall be entertained. Instead, any ground for a motion to dismiss may be pleaded as an affirmative defense in the answer to the protest or counter-protest or petition for *quo warranto*. In the exercise of its discretion, the Tribunal may hold a preliminary hearing on such ground. (R24)

Rule 26. ***Extensions of time.*** – No motion for extension of time to file an answer or a separate counter-protest may be granted except for compelling reasons and only for a period not exceeding 10 days. (R25)

Rule 27. ***Failure to answer; effect.*** – If no answer is filed to the protest, counter-protest or the petition for *quo warranto* within the period fixed in these Rules, a general denial shall be deemed to have been entered. (R26)

Rule 28. ***Amendment, limitations.*** – After the expiration of the period for filing of the protest, counter-protest or petition for *quo warranto*, no substantial amendments which broaden the scope of the action or introduce an additional cause of action shall be allowed. An amendment involving form may be admitted at any stage of the proceedings.

After the period for receiving the evidence has commenced, no amendment to the pleading affecting the merits of the case shall be granted except for justifiable reasons.

When the Tribunal admits an amended protest, counter-protest or petition, it may require the other party to answer the sane within 10 days from service of a copy of such amended protest, counter-protest or petition and of the resolution admitting the same. (R27)

Rule 29. ***Preliminary conference.*** –

(a) *Purpose.* – After the filing of the last pleading, the Tribunal shall order a preliminary conference to consider:

(1) the possibility of obtaining stipulations or admissions of facts and documents to avoid unnecessary proof;

(2) the simplification of the issues;

(3) the limitation of the number of witnesses;

(4) the most expeditious manner for the retrieval of ballot boxes containing the ballots, election returns, certificates of canvass and other election documents involved in the election protest; and

(5) such other matters as may aid in the prompt disposition of the election protest or petition for *quo warranto.*

(b) *Preliminary conference brief.* – The parties shall file with the Tribunal and serve on the adverse party a preliminary conference brief at least five days before the date of the preliminary conference, which shall contain:

(1) stipulations or admissions of facts and documents;

(2) the issues to be resolved;

(3) the numbers and names of witnesses, and the nature and substance of their respective testimonies;

(4) the list of not more than three provinces which the parties may designate pursuant to Rule 65; and

(5) the proposal on the prompt disposition of the case.

(c) *Preliminary conference order.* – The Tribunal shall issue an order reciting the matters taken up during the preliminary conference and the action thereon. (R28)

Rule 30. ***Other pleadings; how filed.*** – Except for the original election protest or petition for *quo warranto* which the Tribunal itself serves on the adverse party, together with the summons, all other pleadings shall be filed with the Office of the Clerk of the Tribunal in 18 clearly legible copies and must be accompanied with proof of service of a complete copy upon the adverse party or parties.

No action shall be taken on pleadings that fail to comply with this Rule. (R29)

Rule 31. ***Proof of service.*** – Proof of personal service shall consist of a written admission of the party served or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If service is made by registered mail, proof shall be made by affidavit of the sender and the registered mail, proof shall be made by affidavit of the sender and the registry receipt issued by the mailing office. The registry return card shall be filed with the Tribunal immediately upon receipt by the sender or, in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given

RESOLUTION on A.M. No. 10-4-29-SC (continued)

by the postmaster to the addressee, as the case may be. A resort to modes other than personal service must be accompanied by a written explanation why the service or filing was not done personally. (R30)

Filing Fees, Charges and Deposits

Rule 32. ***Filing fees.*** **–** No protest, counter-protest or petition for *quo warranto* shall be deemed filed without the payment to the Tribunal of the filing fee in the amount of One Hundred Thousand Pesos (P100,000).

If a claim for damages or attorney's fees is set forth in a protest, counter-protest or petition for *quo warranto*, an additional filing fee shall be paid, which shall be, if the sum claimed is:

(1) Not more than P20,000 . . . . . P240

(2) More than P20,000 but less than P40,000 . . . P300

(3) P40,000 or more but less than P60,000 . . . . . P400

(4) P60,000 or more but less than P80,000 . . . . . P500

(5) P80,000 or more but less than P100,000 . . . . P800

(6) P100,000 or more but less than P150,000 . . . . P1,200

(7) For each P1,000 in excess of P150,000 . . . . . P100 (R31a)

Rule 33. ***Cash deposit.*** **–** In addition to the fees mentioned above, each protestant or counter-protestant shall make a cash deposit with the Tribunal in the following amounts:

(a) If the protest or counter-protest does not require the bringing to the Tribunal of ballot boxes and other election documents and paraphernalia, Twenty Thousand Pesos (P20,000);

(b) If the protest or counter-protest requires the bringing of ballot boxes and election documents or paraphernalia, Five Hundred Pesos (P500) for each precinct involved. If the amount of the deposit does not exceed Two Hundred Thousand Pesos (P200,000), the same shall be made in full with the Tribunal within 10 days after the filing of the protest or counter-protest; and

(c) If the amount of the deposit exceeds Two Hundred Thousand Pesos (P200,000), a partial deposit of at least Two Hundred Thousand Pesos (P200,000) shall be made within 10 days after the filing of the protest or counter-protest. The balance shall be paid in such installments as may be required by the Tribunal on at least five days advance notice to the party required to make the deposit.

The cash deposit shall be applied by the Tribunal to the payment of all expenses incidental to the bringing of the ballot boxes and election documents or paraphernalia to the Tribunal and returning them after the case is terminated, and to the compensation of the members of the revision committees. When the Tribunal determines that the circumstances demand, it may require additional cash deposits. Any unused cash deposit shall be returned to the protestant or counter-protestant after complete termination of the protest or counter-protest. (R32a)

Rule 34. ***Effect of failure to make cash deposit.*** **–** If a party fails to make the cash deposits or additional deposits herein required within the prescribed time limit, the Tribunal may dismiss the protest or counter-protest, or take such action as it may deem equitable under the circumstances. (R33)

Rule 35. ***Other legal fees.*** **–** The following legal fees shall be charged and collected:

(a) For furnishing certified transcripts of records or copies of any decision, resolution, record or entry of which any person is entitled to demand and receive a copy, for each page P20

The Certification is charged separately in the amount of P200

(b) For furnishing certified transcripts of notes taken by stenographers to every person requesting the same for each page of not less than two hundred and fifty words P20

(c) For every search for anything above a year's standing and reading the same P200

(d) For every certificate not on process P100 (R34a)

Production and Custody of Ballot Boxes, Election Documents, Data Storage Devices, and Machines Used in Elections

Rule 36. ***Issuance of precautionary protection order.*** **–** Where the allegations in a protest so warrant, the Tribunal shall, simultaneous with the issuance of summons, order the municipal treasurer and election officer, and the responsible personnel and custodian to take immediate steps or measures to safeguard the integrity of all the ballot boxes and their contents, lists of voters with voting records, books of voters and other documents or paraphernalia used in the election, as well as data storage devices containing electronic data evidencing the conduct and the results of elections in the contested precincts. (n)

Rule 37. ***When ballot boxes and election documents are brought before the Tribunal.*** **–**

(Continued on next page)

RESOLUTION on A.M. No. 10-4-29-SC (continued)

(a) Within 48 hours from receipt of the answer with counter-protest, if any, the Tribunal shall, when the allegations in a protest or counter-protest warrants, order the ballot boxes and their contents with their keys, list of voters with voting records, books of voters, the electronic data storage devices, and other documents, paraphernalia, or equipments relative to the precincts involved in the protest or counter-protest, to be brought before it. (R35a)

(b) The Tribunal shall notify the parties of the date and time for the retrieval of the above-named items from their respective custodians. The parties may send representatives to witness the same. The absence, however, of a representative of a party shall not be reason to postpone or delay the bringing of the ballot boxes, election documents, and data storage devices, into the custody of the Tribunal. (n)

(c) The Tribunal may, in its discretion, seek the assistance of the Philippine National Police or the Armed Forces of the Philippines in ensuring the safe delivery of the ballot boxes and election paraphernalia into the custody of the Tribunal. (n)

(d) Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia mentioned in the first paragraph above are also involved in election contests before other *fora*, such as the Senate Electoral Tribunal or the House of Representatives Electoral Tribunal, the Tribunal shall have preferential right over the custody and revision of ballots involved in simultaneous protests. The Tribunal shall, however, make the appropriate coordination and request with the other electoral bodies involved as to temporary prior custody of ballot boxes and revision of ballots and other documents and storage devices, or the synchronization of such recount of ballots. (R35a)

(e) The expenses necessary and incidental to the bringing of the ballot boxes, election documents, and devices shall be shouldered and promptly paid by the protestant and the counter-protestant, if any, in proportion to the precincts involved. The expenses necessary and incidental to the return of the ballot boxes, election documents, and storage devices to their original custodians or the proper electoral bodies after the termination of the case shall be shared proportionately by the protestant and protestee based on the number of precincts respectively contested by them. (R36a)

REVISION OF VOTES

RULE 38. ***Start of revision.*** – The revision of votes shall commence on the date specified in the preliminary conference order, unless rescheduled by the Tribunal. (n)

RULE 39. ***Revision Committee; under the Tribunal's supervision.*** **–**

(a) The Tribunal shall constitute such number of Revision Committees (RC) as may be necessary. The Tribunal's Clerk of Court shall submit a list of such committees to the Chairman of the Tribunal for his approval. (R37a)

(b) Each RC shall be composed of a Coordinator who shall be a lawyer of the Tribunal, a recorder, a clerk, a typist and a ballot box custodian and one representative each from the protestant and the protestee. The Chairman of the Tribunal shall designate the RC Coordinators from among its personnel. The parties shall also designate their respective alternative representatives. (R37a)

(c) The RCs shall conduct the revision of votes in the Tribunal's premises or at such other places as it may designate but in every case under its strict supervision. The members of the RCs shall discharge their duties with the highest degree of integrity, conducting the proceedings with the same dignity and discipline as if undertaken by the Tribunal itself. They shall exercise extraordinary diligence and take precautionary measures to prevent the loss, disappearance or impairment of the integrity of the ballots and the other election documents, whether electronic or printed, and other election paraphernalia. (n)

RULE 40. ***Compensation of the members of the RCs.*** – The Tribunal shall fix the compensation of the members of the RCs, including the fees for supplies and materials at One Thousand Five Hundred Pesos (P1,500) per clustered precinct and shall be distributed as follows:

a.	Chairman	P540
b.	Recorder	P240
c.	Ballot Box Custodian	P240
d.	Typist	P240
e.	Supplies/materials	P184

The amount of Six Pesos (P6) shall also be allocated for storage of the election paraphernalia and Fifty Pesos (P50) for the honoraria of the warehouse handlers. The representatives of the parties shall be directly compensated by their respective principals or by parties themselves. (n)

RESOLUTION on A.M. No. 10-4-29-SC (continued)

Rule 41. ***Continuous revision.*** – Once commenced, the revision of votes shall continue from day to day as far as practicable until terminated.

(a) *Period for revision.* – The revision shall be conducted from 8:30 o'clock in the morning to 12:00 noon and from 1:30 to 4:30 o'clock in the afternoon from Monday to Friday, except on non-working holidays. The members of the RCs may take a 15-minute break in each session. (n)

(b) *Revision to continue even if a party representative is absent or late.* – The revision of votes shall not be delayed or postponed by reason of the absence or tardiness of a party representative as long as the RC Coordinator and one party representative are present. The Chairman of the Tribunal may at any time designate another Coordinator if the regular Coordinator fails for any reason to report. (n)

(c) *If the representative of the protestee is absent or late.* – If the representative of the protestee is absent or late for 30 minutes and no alternate appears as a substitute, the revision shall, nevertheless, commence; the protestee shall be deemed to have waived the right to appear and to object to the ballots in the precinct or precincts scheduled for revision on that particular day. (n)

(d) *If the representative of protestant or counter-protestant, or of both parties fail to appear.* – If the representative of the protestant, or of both parties and alternates fail to appear for no justifiable reason within one hour after fixed hours from the start of the revision, the ballot boxes scheduled for that day, and the corresponding keys in the possession of the chairperson, shall be returned to the ballot box custodian of the Tribunal and shall no longer be revised; it is understood that the parties waive their right to revise the same, and the RC Coordinator concerned shall state such facts in the corresponding RC report. (n)

Rule 42. ***Prohibited access.*** – During the revision of votes, no person other than the Members of the Tribunal, the clerk of the Commission, the RC Coordinators, and the members of the RCs, the parties and their duly authorized representatives, shall have access to the revision area. (n)

Rule 43. ***Conduct of the revision.*** – The revision of votes shall be done through the use of appropriate PCOS machines or manually and visually, as the Tribunal may determine, and according to the following procedures:

(a) The date and place of the revision and the number of the RCs shall be set during the preliminary conference. (n)

(b) The RCs shall convene at the appointed place and on the appointed day. (n)

(c) The ballot boxes containing the ballots from the protested precincts, the data storage device used in such precincts, as well as the machine or any device that can be used to authenticate or assure the genuineness of the ballots shall be brought to the venue of the revision on the same day. (n)

(d) The different RCs shall be provided with an adequate workspace, with tables and chairs that would enable them to perform the revision in an efficient and transparent manner. (n)

(e) The RCs shall, upon the request in writing of the parties, randomly pick the precinct that would be the subject of the revision. (n)

(f) Before opening the ballot box, the RCs shall note its condition as well as that of the locks or locking mechanism and record the condition in the revision report. From its observation, the RCs must also make a determination as to whether the integrity of the ballot box has been preserved. (R40a)

(g) The ballot box shall then be opened and the ballots shall be taken out. The "valid" ballots shall first be counted, without regard to the votes obtained by the parties. This will be followed by the counting of the torn, unused and stray ballots, as classified at the polling place. (n)

(h) The votes appearing in election returns copy for the ballot box shall then be recorded in the minutes. (n)

(i) Prior to the actual conduct of the revision of the votes the RC must authenticate each and every ballot to make sure that they were the same ballots that were cast and fed to the PCOS machine during the elections. The authentication shall be through the use of the PCOS machine actually used during the elections in the subject precinct, or by another device certified by the Commission on Elections (COMELEC) as one that can perform the desired authentication requirement through the use of bar code and ultra- violet ray code detection mechanism. (n)

(j) Only when the RC, through its coordinator, determines that the integrity of the ballots has been preserved, will the revision proceed. (n)

(k) Upon such determination, the RC shall then look at the ballot and count the votes as registered in

(Continued on next page)

RESOLUTION on A.M. No. 10-4-29-SC (continued)

each and every one of them for the contested position. (n)

(l) In looking at the shades or marks used to register votes, the RC shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting aside any technicalities. Furthermore, the votes thereon are presumed to have been made by the voter and shall be considered as such unless reasons exist that will justify their rejection. However, marks or shades which are less than 50 percent of the oval shall not be considered as valid votes. Any issue as to whether a certain mark or shade is within the threshold shall be determined by feeding the ballot on the PCOS machine, and not by human determination. (n)

(m) The rules on appreciation of ballots under Section 211 of the Omnibus Election Code shall apply suppletorily when appropriate. (n)

(n) There shall be a tally sheet, when conducting a manual count, of at least five copies, plus additional copies depending on the number of additional parties, that will be used for the tallying of the votes as they are counted, through the use of the tara or sticks. (n)

(o) After all the ballots from one ballot box have been counted, the RC shall secure the contested ballots and complete the revision report for said precinct. Thereafter, it shall proceed to revise the votes on the ballots from the next precinct. (n)

(p) In case of multiple RCs, the revision shall be done simultaneously.

(q) In the event that the RC determines that the integrity of the ballots and the ballot box was not preserved, as when there is proof of tampering or substitution, it shall proceed to instruct the printing of the picture image of the ballots of the subject precinct stored in the data storage device for the same precinct. The Tribunal may avail itself of the assistance of the COMELEC for the service of a non-partisan technical person who shall conduct the necessary authentication process to ensure that the data or images stored are genuine and not merely substitutes. It is only upon such determination that the printed picture image can be used for the revision of votes. (n)

Rule 44. ***Preparation and submission of revision report.*** – The RCs shall prepare and submit to the Tribunal a revision report per precinct stating the following:

(a) The precinct number;

(b) The date, place and time of revision;

(c) The condition and serial numbers of the following:

(1) Ballot boxes;

(2) Locks; and

(3) Data storage device;

(d) The votes of the parties per physical count of the paper ballots;

(e) The votes of the parties per ballot-box copy of the election returns;

(f) The number of ballots questioned by the parties indicating their exhibit numbers;

(g) The number of torn, unused, and stray ballots;

(h) The entries in the Minutes of Voting and Counting, particularly:

(1) The number of registered voters;

(2) The number of voters who actually voted;

(3) The number of official ballots together with their serial numbers used in the election;

(4) The number of ballots actually used indicating the serial numbers of the ballots; and

(5) The unused ballots together with their serial numbers.

The revision forms shall be made available prior to the revision. The per-precinct revision report shall be signed and certified to by the revision coordinator and the representatives of the parties, and shall form part of the records of the case. The tally sheet used for the revision shall be attached to the report.

In addition to the per-precinct revision report, the RC shall also prepare and submit to the Tribunal, within seven days from the termination of the revision, a committee report summarizing the data, votes, questions on the ballots, significant observations made in the revision of votes from each of the protested precincts, and comments and objections in case of disagreement between RC members. Each party furnished with a copy of the committee report may submit their comments thereon within a non-extendible period of seven days from notice. (n)

Rule 45. ***Inquiry as to security markings and vital information relative to ballots and election documents.*** – When a revision of ballots is ordered, and for the guidance of the members of the Revision Committees, the Tribunal shall direct the COMELEC to give advice and instructions to the RCs on the security markings on the ballots and election documents. The Tribunal

RESOLUTION on A.M. No. 10-4-29-SC (continued)

shall likewise designate a technical person who shall assist the RCs in authenticating electronic documents if needed, as well as in transforming the same to a form that can make them observable to the Tribunal. (n)

Technical Examination

Rule 46. ***Motion for technical examination; contents.*** – Within five days after completion of the revision of votes, either party may move for a technical examination, specifying:

(a) The nature of the technical examination requested (e.g., the examination of the genuineness of the ballots or election returns, and others);

(b) The documents to be subjected to technical examination;

(c) The objections made in the course of the revision of votes which he intends to substantiate with the results of the technical examination; and

(d) The ballots and election returns covered by such objections. (R43a)

Rule 47. ***Technical examination; time limits.*** – The Tribunal may grant the motion for technical examination in its discretion and under such conditions as it may impose. If the motion is granted, the Tribunal shall schedule the technical examination, notifying the other parties at least five days in advance. The technical examination shall be completed within the period allowed by the Tribunal. A party may attend the technical examination, either personally or through a representative, but the technical examination shall proceed with or without his attendance, provided due notice has been given to him.

The technical examination shall be conducted at the expense of the movant and under the supervision of the Clerk of the Tribunal or his duly authorized representative. (R44)

Rule 48. ***Experts; who shall provide.*** – The Tribunal shall appoint independent experts necessary for the conduct of a technical examination. The parties may avail themselves of the assistance of their experts who may observe, but not interfere with, the examination conducted by the experts of the Tribunal. (R45)

Rule 49. ***Technical examination not interrupted.*** – Once started, the technical examination shall continue every working day until completed or until expiration of the period granted for such purpose. (R46)

Rule 50. ***Photographing or electronic copying.*** – Upon prior approval of the Tribunal, photographing or electronic copying of ballots, election returns or election documents shall be done within its premises under the supervision of the Clerk of the Tribunal or his duly authorized representative, with the party providing his own photographing or electronic copying equipment. (R47a)

Rule 51. ***Scope of technical examination.*** – Only the ballots, election returns and other election documents allowed by the Tribunal to be examined shall be subject to such examination. (R48)

Subpoenas

Rule 52. ***Who may issue.*** – The Tribunal may issue *subpoena ad testificandum* or *subpoena duces tecum motu proprio* or upon request of any of the parties. (R50)

Rule 53. ***Form and contents.*** – A subpoena *ad testificandum,* signed by the Clerk of the Tribunal, shall state the name of the Tribunal, the title of the action and be directed to the person whose attendance is required. A *subpoena duces tecum* shall contain a reasonable description of the books, documents or things demanded which must appear *prima facie* relevant. (R51)

Rule 54. ***Authority of Hearing Commissioners to issue subpoena.*** – The Tribunal may authorize Hearing Commissioners to issue *subpoenas* in cases assigned to them for reception of evidence. (R52)

Reception of Evidence

Rule 55. ***Hearings.*** – After the submission of all Revision/Correction Reports, the Tribunal may delegate the reception of evidence to a Hearing Commissioner who is a member of the Bar. (R53)

Rule 56. ***Preliminary conference.*** – The Hearing Commissioner shall fix a date for the reception of evidence and submission of the affidavits of the witnesses of the parties, with the adverse parties being furnished copies.

Reception of evidence shall be done at the offices of the Tribunal unless the Hearing Commissioner directs its reception in some other place. (R54)

Rule 57. ***Procedure of hearings.*** – At the hearings, the affidavits of the witnesses submitted by the parties shall constitute their direct testimonies. Witnesses who testify may be subject to cross-examination, redirect or re- cross examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

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RESOLUTION on A.M. No. 10-4-29-SC (continued)

Except on rebuttal or surrebuttal, no witness shall be allowed to testify unless his affidavit was previously submitted to the Tribunal.

However, should a party desire to present additional affidavits or counter-affidavits as part of his direct evidence, he shall manifest during the preliminary conference, stating their purpose. If allowed by the Tribunal, the additional affidavits of the protestee shall be submitted to the Tribunal and served on the adverse party not later than five days after the termination of the preliminary conference. If the additional affidavits are presented by the protestant, the protestee may file his counter-affidavits and serve the same on the protestant within five days of such service. (R55a)

Rule 58. ***Cross-examination; effect of absence of a party.*** – In the reception of evidence of a party before a Hearing Commissioner, the other party has a right to be present and to cross-examine the witnesses presented.

The Hearing Commissioner may proceed *ex parte* in the absence of the other party provided he has been duly notified of the hearing.

If a party presenting evidence fails to appear at the time and place designated, the Hearing Commissioner may adjourn the proceedings to a future day, giving notice to the absent party or his attorney of the adjournment. The delay shall be charged to the party's period to present evidence. (R56)

Rule 59. ***Hearing Commissioner to rule on objections.*** – The Hearing Commissioner receiving the evidence shall rule on objections made in the course of cross-examination subject to review by the Tribunal.

An exception to a ruling of the Hearing Commissioner shall not suspend the reception of evidence. (R57)

Rule 60. ***Procedure after hearing by Commissioner.*** – The Hearing Commissioner shall submit the evidence presented, together with the transcripts of the proceedings held before him, to the Tribunal within five days. (R58)

Rule 61. ***Time limit for presentation of evidence.*** – Each party is given a period of 30 working days to complete the presentation of his evidence, including its formal offer. This period shall begin from the first date set for the presentation of the party's evidence, either before the Tribunal or a Hearing Commissioner.

The hearing for any particular day or days may be postponed or canceled upon the request of either party. The delay caused by such postponement shall be charged to the period for presenting evidence of the movant.

The following shall not be charged against the period allotted to either party:

(a) The period when presentation of the party's evidence is suspended by order of the Tribunal or the Hearing Commissioner by reason of the pendency of an issue in the nature of a prejudicial question which must first be resolved before the hearing can continue; and

(b) The time taken up in the cross-examination of his witnesses by the other party.

A party may present rebuttal or surrebuttal evidence during the remainder of the 30-day period that he has not utilized for the presentation of his evidence-in-chief. (R59)

Rule 62. ***Evidence not formally offered, inadmissible.*** – Evidence not formally offered shall not be admitted and considered by the Tribunal in deciding the case. (R60)

Memoranda

Rule 63. ***When submitted; contents.*** – Within 20 days from receipt of the Tribunal's ruling on the last offer of evidence by the protestee, the parties shall simultaneously submit their respective memoranda setting forth briefly:

(a) The facts of the case;

(b) A complete statement of all the arguments submitted in support of their respective views of the case;

(c) Objections to the ballots adjudicated to or claimed by the other party in the revision of ballots;

(d) Refutation of the objections of the other party to the ballots adjudicated to or claimed in the revision of ballots;

(e) Objections to the tallying of election returns and certificates of canvass raised by the other party in the correction of manifest error; and

(f) Refutation of the objections raised by the other party to the tallying of election returns and certificates of canvass in the correction of manifest error.

All evidence, as well as objections to evidence presented by the other party, shall be either referred to or contained in the memorandum or in an appendix thereto. (R61)

Rule 64. ***Supplemental or rebuttal memorandum.*** – When required or allowed by the Tribunal, a party shall file

RESOLUTION on A.M. No. 10-4-29-SC (continued)

a supplemental or rebuttal memorandum. (R62)

Initial Determination of the Grounds for Protest

Rule 65. ***Dismissal; when proper.*** **–** The Tribunal may require the protestant or counter-protestant to indicate, within a fixed period, the province or provinces numbering not more than three, best exemplifying the frauds or irregularities alleged in his petition; and the revision of ballots and reception of evidence will begin with such provinces. If upon examination of such ballots and proof, and after making reasonable allowances, the Tribunal is convinced that, taking all circumstances into account, the protestant or counter-protestant will most probably fail to make out his case, the protest may forthwith be dismissed, without further consideration of the other provinces mentioned in the protest.

The preceding paragraph shall also apply when the election protest involves correction of manifest errors. (R63)

Voting

Rule 66. ***Votes required.*** **–** In resolving all matters or questions submitted to the Tribunal, including the rendition of a decision and the adoption of resolutions, the concurrence of a majority of the Members present constituting a quorum, who actually took part in the deliberations on the issue of the case and voted therein, shall be necessary. (R64)

Decision

Rule 67. ***Procedure in deciding contests.*** **–** In rendering its decision, the Tribunal shall follow the procedure prescribed for the Supreme Court in Sections 13 and 14, Article VIII of the Constitution. (R65)

Rule 68. ***Promulgation of decision.*** **–** After the judgment and dissenting opinions, if any, are signed, they shall be delivered for filing with the Clerk of the Tribunal who shall cause true copies to be served personally upon the parties or their counsel. (R66)

Rule 69. ***Finality of decision.*** **–** The decision shall become final 10 days after receipt of a copy by the parties or their counsel if no motion for reconsideration is filed.

No motion shall be entertained for the reopening of a case; a motion for reconsideration of a decision may be allowed under the evidence of record. A party may file a motion for reconsideration within 10 days from service of a copy of the decision. No party may file more than one motion for reconsideration, copy of which shall be served personally upon the adverse party who may answer the motion within five days after its receipt.

If the motion for reconsideration is denied, the decision shall become final and executory upon personal service on the parties of the resolution disposing of the motion for reconsideration. If the motion for reconsideration is granted, the party adversely affected may move to reconsider within 10 days from receipt of the resolution granting the motion for reconsideration; otherwise, the decision as reconsidered shall become final and executory after the lapse of said period. (R67)

Rule 70. ***Entry of judgment.*** **–** The judgment shall be entered by the Clerk of the Tribunal immediately upon its finality. The recording of the judgment in the Book of Entries of Judgment shall constitute its entry. The record shall contain the dispositive part of the judgment and shall be signed by the Clerk of the Tribunal, with a certificate that such judgment has become final and executory. (R68)

Rule 71. ***Procedure after finality of decision.*** **–** As soon as a decision is entered, notice shall be sent to the Senate, the House of Representatives, the Commission on Elections and the Commission on Audit.

The originals of the decisions of the Tribunal shall be kept in bound form in the archives of the Tribunal. (R69)

Costs

Rule 72. ***When allowed.*** **–** Costs shall be allowed to the prevailing party as a matter of course. The Tribunal shall have the power, for special reasons, to apportion the costs, as may be equitable. (R70)

Supplementary Rules

Rule 73. ***Applicability.*** **–** The following shall be applicable by analogy or in suppletory character and effect in so far as they may be applicable and are not inconsistent with these Rules and with the decisions, resolutions and orders of the Tribunal, namely:

(a) The Revised Rules of Court;

(b) Decisions of the Supreme Court; and

(c) Decisions of the Electoral Tribunal. (R71)

Amendment

Rule 74. ***Amendment.*** **–** The Tribunal may, at any time, amend these Rules. (R72)

Effectivity

Rule 75. ***Effectivity.*** **–** These Rules shall take effect 15 days after publication in a newspaper of general circulation in the Philippines. (R73a)

ADMINISTRATIVE ORDER NO. 87-2010

PRESCRIBING POLICIES AND IMPLEMENTATION ARRANGEMENTS TO GUIDE THE DECENTRALIZATION OF ADMINISTRATIVE AND FINANCIAL MANAGEMENT FUNCTIONS, DEFINING THE ROLE AND AUTHORITY OF THE COURT ADMINISTRATOR AND CREATING THE OVERSIGHT UNIT

WHEREAS, the decentralization of administrative and financial management functions, based on the principle of subsidiarity, is intended to improve efficiency in the management of limited resources and provide prompt and responsive services to the first and second level courts;

WHEREAS, Administrative Order No. 135-2009 provided for the establishment of a Regional Court Administration Office (RCAO) in the 3rd and 11th Judicial Regions, and the creation of an oversight unit;

WHEREAS, the insights gained and findings from the implementation of the RCAO in the 7th Judicial Region indicated that the installation of an oversight system will be able to effectively contribute to and manage the roll-out of the decentralized operations, including administrative changes in these judicial regions (and other RCAOs which may be established thereafter) and implementation of systems, along with sustained capacity development support for the decentralization process;

NOW, THEREFORE, the following policies and implementation arrangements are hereby adopted:

Section 1. ***The Court Administrator.*** **–** The Court Administrator shall be responsible for the overall management of the implementation of the decentralization process. He shall exercise overall authority over administrative and financial management functions involving the 3rd, 7th and 11th Judicial Regions and the RCAOs therein, and such other RCAOs which may be established thereafter. In the implementation of the decentralization process, the Court Administrator shall have the following functions:

(1) Recommend the administrative structure and staffing of the RCAOs, the administrative and financial management policies, standards, rules and procedures that will guide operations; and upon approval, be responsible in managing its implementation. To this end, the Court Administrator mayissue directives or circulars to guide the RCAOs; ensure the provisions of capacity building and training of RCAO personnel and personnel from other offices.

(2) Recommend to the Chief Justice the annual allotment program and annual cash program for the 3rd, 7th and 11th Judicial Regions and the RCAOs and, upon approval exercise authority to administer the same;

(3) Recommend to the Chief Justice budget realignments that are not within the authority of RCAOs to approve;

(4) Administer the centrally managed funds within the approved allotment and cash programs of the judicial region and its RCAO, including the timely review and approval of requests by RCAOs for releases from these funds;

(5) Approve award of bids and contracts by the Regional Bids and Awards Committees (RBAC) to be constituted for each judicial region, for the procurement of goods and services and for capital outlay for the said judicial regions within the approval thresholds of the Court Administrator;

(6) Approve personnel actions within the approval thresholds of the Court Administrator; and

(7) Perform such other related functions as may be assigned.

Sec. 2. ***Establishment of an Oversight Unit.*** **–** The Oversight Unit (OU) is hereby established to act as the coordination and capacity-building arm of the Court Administrator for the implementation of the decentralization process. The OU shall be headed by the Court Administrator, as its Chairperson. The Chairperson shall be assisted by a Vice Chairperson who will be responsible for managing the day-to-day operations of the OU.

The OU shall be composed of the following:

(1) The Court Administrator – Chairperson

(2) The Deputy Court Administrator or Assistant Court Administrator Supervising the Judicial Region Concerned – Vice Chairperson

(3) The Chief, Fiscal Management and Budget Office

(4) The Judicial Reform Program Administrator, Program Management Office

(5) The Chief, Management Information Systems Office

(6) The Chief, OCA-Office of Administrative Services

(7) The Chief, OCA-Financial Management Office

Sec. 3. Functions of the Oversight Unit. – The Oversight Unit shall perform the following functions:

(1) Through its members, provide guidance to the RCAOs in the formulation of their proposed annual

A.O. No. 87- 2010 (continued)

budgets, annual work and financial plans, allotment programs and cash programs;

(2) Act as the coordinating unit for the resoultion of issues relating to the application of decentralized administrative and financial policies and processes;

(3) Coordinate actions or common transactions emanating from the regions which require integrated or coordinated action or decisions;

(4) Develop and implement a capacity development program including training, and provision of manuals and/or issuance providing policies and procedures, work tools, and related support to effectively guide RCAO personnel in the conduct of their tasks;

(5) Implement in an incremental manner the decentralization of specific administrative and financial management functions consistent with the competencies and absorptive capacity of the RCAO personnel;

(6) Coordinate technical support in the design and implementation of the physical assets management, human resources, development, budgeting, revenue management, cash management and financial accounting systems and in overseeing operations within a decentralized frameworks; and

(7) Perform such other functions that will ensure synchronized execution of all operations within the decentralized setup.

Sec. 4. ***Preparatory Activities and Action Plan.*** – The Oversight Unit shall prepare and submit the following for approval by the undersigned, prior to the opening for business of the Oversight Unit:

(a) An action plan and work program to operationalize the Oversight Unit, establish as well as operationalize the RCAOs in the 3rd and 11th Judicial Regions, and

(b) Improve the design and capacity of RCAO-7.

Sec. 5. Separability Clause. – All orders or specific provisions thereof that are contrary or inconsistent with the provisions of this order are hereby modified or repealed accordingly.

Sec.6. ***Effectivity.*** – This Administrative Order shall take effect immediately.

Issued this 17th day of March 2010.

(Sgd.) REYNATO S. PUNO
Chief Justice

OCA CIRCULAR NO. 51-2010

TO : **ALL EXECUTIVE/ PRESIDING JUDGES AND CLERKS OF COURT/ACCOUNTABLE OFFICERS OF THE FIRST AND SECOND LEVEL COURTS**

SUBJECT: **EXEMPTION OF THE DANGEROUS DRUG BOARD FROM THE PAYMENT OF LEGAL FEES**

The Dangerous Drug Board, through its Executive Secretary, Undersecretary Edgar C. Galvante has invited the attention of this Court that Petitions for Voluntary Confinement of Drug Dependents filed by the Board should be exempt from the required filing fees under Section 22, Rule 141 of the Rules of Court considering that said Board is under the Office of the President.

Finding merit on the position of the Board, the Court En Banc in its Resolution dated March 2, 2010 in **A.M. No. 10-2-03-0 (Re: Clarification on the Exemption of the Dangerous Drug Board from Payment of Filing Fees), RESOLVED** to **EXEMPT** the Dangerous Drug Board from the payment of filing fees relative to Petitions for Voluntary Confinement under Article VIII, Section 54 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

Strict compliance is hereby enjoined.

April 23, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

OCA CIRCULAR NO. 52-2010

TO : **ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS**

SUBJECT : **EXPEDITING THE HEARINGS OF CASES INVOLVING JAIL INMATES AND PRISONERS**

Pursuant to the Resolution of the Court En Banc dated 16 February 2010 in A.M. No. 10-1-01-0 (Re: Recommendation of Assistant Solicitor General Karl B. Miranda, Office of the Solicitor General [OSG], Relative to the Efforts of the Supreme Court to Expedite the Hearings of Cases Involving Jail Inmates and Prisoners), all lower courts are enjoined to observe the following recommendations of the OSG, to quote:

1. Jail inmates and prisoners be given access to crucial information on their cases. This can be done by requiring copies of pleadings, motions, orders, resolutions, and decisions thereon, to be served upon them, and not only upon their legal counsels. Service to legal counsel of said

(Continued on next page)

OCA Circular No. 52- 2010 (continued)

pleadings, motions, orders, resolutions land decisions, however, remains to be the reckoning period for filing motions for reconsideration, new trial, appeal or petitions for review,

2. Copies of the abovementioned pleadings be given to the Bureau of Corrections and the Bureau of Jail Management and Penology, as the case maybe.

For strict compliance.

April 23, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

OCA CIRCULAR NO. 53-2010

TO: **ALL JUDGES AND CLERKS OF COURT/ ACCOUNTABLE OFFICERS OF THE FIRST AND SECOND LEVEL COURTS**

***SUBJECT*: CLARIFICATION ON THE EXEMPTION OF THE BAGUIO MARKET VENDORS MULTI-PURPOSE COOPERATIVE (BAMARVEMPCO) FROM THE PAYMENT OF LEGAL FEES**

Quoted hereunder are significant portions of the Honorable Court's pronouncement in its Decision dated February 26, 2010, in G.R. No. 165922 *(Re: Baguio Market Vendors Multi-Purpose Cooperative [BAMARVEMPCO], represented by RECTO INSO, Operations Manager, Petitioner, versus, Hon. Iluminada Cabato-Cortes, Executive Judge, Regional Trial Court, Baguio City),* relative to the issue on whether the petitioner's application for extrajudicial foreclosure is exempt from legal fees under Article 62 (6) of Republic Act No. 6938. The Court in denying the petitioner's request for exemption from payment of foreclosure fees, held that:

xxxx xxxx xxxx xxxx

Petitions for Extrajudicial Foreclosure Outside of the Ambit of Article 62(6) of RA 6938

The scope of the legal fees exemption Article 62(6) of RA 6938 grants to cooperatives is limited to two types of actions, namely: (1) actions brought under RA 6938; and (2) actions brought by the Cooperative Development Authority to enforce the payment of obligations contracted in favor of cooperative. ***By simple deduction, it is immediately apparent that Article 62 (61 of RA 6938 is no authority -for petitioner to claim exemption .from the payment of legal fees in this proceeding because first, the fees imposable on petitioner do not pertain to an action brought under RA 6938 but to a petition for extrajudicial foreclosure of mortgage under Act 3135. Second, petitioner is not the Cooperative Development Authority which can claim exemption only in actions to enforce payments of obligations on behalf of cooperatives.*** *(Emphasis supplied)*

For your strict compliance.

April 23, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

OCA CIRCULAR NO. 62-2010

TO : **ALL JUDGES OF LOWER COURTS**

***SUBJECT*: IMPLEMENTATION OF SECTIONS 7 AND 50-A OF RA No. 6657, ALSO KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS RESPECTIVELY AMENDED BY SECTIONS 5 AND 19 OF RA NO. 9700 (AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM [CARP], EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR)**

Republic Act No. 9700 (RA No. 9700), extending the implementation of the Comprehensive Agrarian Reform Program (CARP) for the next five years, introduced several reforms to Republic Act No. 6657 (RA No. 6657) otherwise known as the Comprehensive Agrarian Reform Law of 1988. Among others, Section 5 of RA No. 9700 amended Section 7 of RA No. 6657 on the priorities in the land acquisition and distribution, while Section 19 of RA No. 9700 amended Section 50 of RA No. 6657 on the quasi-judicial powers of the Department of Agrarian Reform (DAR).

With respect to Section 7 of RA No. 6657 as amended by Section 5 of RA No. 9700, the Presidential Agrarian Reform Council (PARC), through Hon. Nasser C. Pangandaman, DAR Secretary and Chairman, PARC Executive Committee, invited the attention of this Court concerning the refusal of some municipal judges to administer the oath in applications of intended beneficiaries under the CARP, pursuant to paragraph 2 thereof, to wit:

xxxx

Provided, finally, as mandated by the Constitution, Republic Act No. 6657, as amended, and Republic Act No. 3844, as amended, only farmers (tenants or lessees) and regular farmworkers actually tilling the lands, as certified under oath by the Barangay Agrarian Reform Council (BARC) and attested under oath by the landowners, are the qualified beneficiaries. **The intended beneficiary shall state under oath** *before the judge of the city or municipal*

***court* that he/she is willing to work the land to make it productive and to assume the obligation of paying the amortization for the compensation of the land and the land taxes thereon;** x x x. (*Emphasis supplied*)

Henceforth, all concerned are hereby **DIRECTED** to judiciously and faithfully OBSERVE the abovementioned provision of the law in order to ensure the prompt and smooth acquisition and distribution of agricultural lands to our farmers in the countryside.

With respect to Section 50 of RA No. 6657, it should be noted that as July 1, 2002, Administrative Circular No. 29-2002 was issued to remind all trial court judges of the need for a careful and judicious application of RA No. 6657, in view of the increasing number of complaints on matters of jurisdiction over agrarian disputes. The circular cited therein Section 50 as follows:

> SEC. 50. ***Quasi-Judicial Powers of the DAR***. – The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

With the enactment of RA No. 9700, Section 19 thereof further amended Section 50 of RA No. 6657 by adding Section 50-A**,** thus:

> **SEC. 19.** Section 50 of Republic Act No. 6657, as amended, is hereby further amended to read as follows:
>
> **SEC.50-A**. ***Exclusive Jurisdiction on Agrarian Dispute.*** **–** No court or prosecutor's office shall take cognizance of cases pertaining to the implementation of the CARP except those provided under Section 57 of Republic Act No. 6657, as amended. If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, **the case shall be automatically referred by the judge or the prosecutor to the DAR which shall determine and certify within 15 days from referral whether an agrarian dispute exists:** *Provided*, That from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial**.** In cases referred by the municipal trial court and the prosecutor's office, the appeal shall be with the proper regional trial court and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals.
>
> In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and/or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interests under the CARP.
>
> The fact of non-registration of such associations with the Securities and Exchange Commission, or Cooperative Development Authority, or any concerned government agency shall not be used against them to deny the existence of their legal standing and interest in a case filed before such courts and quasi-judicial bodies. (*Emphasis Supplied*)

This is in consonance with *Department of Agrarian Reform v. Cuenca,*[1] where the Court stated that "[all controversies on the implementation of the Comprehensive Agrarian Reform Program (CARP) fall under the jurisdiction of the Department of Agrarian Reform (DAR), **even though they raise questions that are also legal or constitutional in nature.** All doubts should be resolved in favor of the DAR, since the law has granted it special and original authority to hear and adjudicate agrarian matters. (*Emphasis supplied*)

In *Salazar v. de Leon,*[2] the Court dismissed the Complaint for recovery of possession of real property and declared that the dispute between the parties as landowner and tenant is agrarian in nature falling within the domain of the DARAB. The Court also noted that such ruling is "in line with the doctrine of primary jurisdiction which precludes the regular courts from resolving a controversy over which jurisdiction has been lodged with an administrative body of special competence."

This jurisprudential trend shows the Court's recognition of DAR as the administrative body of special competence and expertise granted by law with primary and exclusive original jurisdiction over agrarian reform matters. In furtherance of the Court's policy to expedite the resolution of cases involving agrarian disputes and to fully implement the objectives of agrarian reform laws, all courts and judges concerned are hereby enjoined to strictly observe Section 50-A of RA No. 6657, as amended by RA No. 9700, and refer all cases before it alleged to involve an agrarian dispute to the DAR for the necessary determination and certification.

For your information, guidance, and strict compliance.

April 28, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

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[1] G.R. No. 154112, September 23, 2004, 439 SCRA 15.

[2] G.R. No. 127965, January 20, 2009, 576 SCRA 447.

PHILJA Bulletin

3rd Floor, Supreme Court Centennial Building
Padre Faura St. cor. Taft Ave., Manila, Philippines
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2010 Upcoming PHILJA Events

- Seminar-Workshop on the Rule of Procedure for Small Claims Cases - Region 4
  July 13-15, Pasay City
- Extralegal Killings Helpbook Writeshop
  July 23-25, Naga City
- Orientation Seminar-Workshop for Newly Appointed Clerks of Court
  July 27-30, Manila
- Knowledge Sharing on New Human Rights Issues: International Humanitarian Law, Anti-Torture Law and Human Security in Relation to Extralegal Killings and Enforced Disappearances
  July 29, Makati City
- Seminar-Workshop on the Rule of Procedure for Small Claims Cases - Regions 11 and 12
  August 3 & 5, Davao City
- Information Dissemination (E-JOW)
  August 4, Iloilo City
- Launching of the Enhanced Justice on Wheels (E-JOW) Mobile Court
  August 5, Bacolod City
- Launching of the Enhanced Justice on Wheels (E-JOW) Mobile Court
  August 7, Dumaguete City
- Second Multi-Sectoral Capacity-Building on Environmental Laws and the Rules of Procedure for Environmental Cases
  August 11-13, Lapu-lapu City
- Seminar-Workshop on Dangerous Drugs Law for Judges, Prosecutors and Law Enforcers (NCJR)
  August 16-18, Tagaytay City
- 20th Pre-Judicature Program
  August 16-27, Laoag City
- Personal Security Training for Judges (Visayas)
  August 17-19, Cebu
- Launching of the Publication of the Metrobank Foundation Professorial Chair Lecture Series
  August 20, Makati City
- Competency Enhancement Training for Family Court Judges and Court Personnel
  August 24-26, Manila
- Program Review of the Competency Enhancement Training for Family Court Judges and Court Personnel
  August 26-27, Manila
- Information Dissemination (E-JOW)
  August 27, Naga City
- Facilitators' Orientation Workshop re: Pilot Training on Sextortion (under the project "Stopping the Abuse of Power for Purposes of Sexual Exploitation: Naming, Shaming and Ending Sextortion")
  August 28, Manila
- Information Dissemination (E-JOW)
  August 30, Calbayog City
- Information Dissemination (E-JOW)
  August 31, Ormoc City
- Information Dissemination (E-JOW)
  September 3, City of San Fernando, Pampanga
- Pilot Training on Sextortion (under the project "Stopping the Abuse of Power for Purposes of Sexual Exploitation: Naming, Shaming and Ending Sextortion")
  September 9-10, Manila
- Seminar-Workshop on CEDAW, Gender Sensitivity, and the Courts for Court of Appeals Lawyers
  September 9-10, Manila

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