PHILJA Bulletin

April to June 2000 *Volume II, Issue No. 6*

Excellence in the Judiciary

From the Chancellor's Desk

PHILJA continues to be a beehive of activity. This issue of the PHILJA Bulletin reflects that. We are grateful that there seems to be growing recognition of PHILJA's contribution to the Judiciary. At the same time, we are wary about taking on too much. We cannot sacrifice efficiency and effectiveness.

Judge Tomson Ong, Fulbright-Sycip Distinguished Lecturer, visited PHILJA once more. His last visit was to address the Court of Appeals Justices and some Regional Trial Court Judges on white-collar crimes. This time, he addressed Family Court Judges from the NCJR, Judicial Regions III and IV, and selected Prosecutors and PAO lawyers on "Domestic Violence and the Courts."

Preparing the designated judges to preside over Family Courts has been another of PHILJA's pressing concerns. Aside from drafting proposed rules applicable to child-witnesses, PHILJA has addressed itself to the training needs of judges. One of the first was the training program conducted for them in collaboration with the British Embassy, with almost all designated Family Court Judges attending. In that activity, we were also honored to have the viewpoints of a British Judge, Honorable Peter Copley. The next phase of the program will consist of regional multi-sectoral seminars that should lead to the full implementation of the laws on the protection of the family and of children. In this project, PHILJA will be privileged to have UNICEF as an active partner.

Discerning the need to offer its own professors and lecturers the opportunity to develop newer and more effective instructional techniques and strategies, PHILJA has entered into partnerships with institutions and leading figures in judicial education. One of these is Director Livingston Armytage of the Centre for Judicial Studies of Australia who visited the Philippines. He dialogued with participants in the Advanced Course of the Judicial Career Enhancement Program (JCEP) for First-level and Second-level Trial Court Judges on "Judges as Learners," among others.

(Continued on page 3)

In this issue

From the Chancellor's Desk....1
Domestic Violence and the Courts....2
Judges Trained For Family Courts....3
Australia-Philippines Judicial Project a Success....5
Pre-Judicature Training Program....6
First Advanced Course on Judicial Career Enhancement Program....7
Supreme Court Modifies "Wenphil"....8
New Ruling of the Supreme Court....11
Doctrinal Reminders....12
Resolutions, Orders, and Circulars
Supreme Court
A.M. No. 00-2-11-SC....15
A.O. No. 80-2000....17
PHILJA Events....20

DOMESTIC VIOLENCE AND THE COURTS

Once again, Judge Tomson T. Ong, Doctor of Public Administration and 1999-2000 Fulbright-Sycip Family Foundation Distinguished Lecturer, graced the Philippine Judicial Academy (PHILJA) last March 7, 2000 when he delivered a lecture on *Domestic Violence and the Courts* at the Conference Hall, Court of Appeals, Manila.

According to Judge Ong, under the new California law, rape can no longer be considered as a sex crime, but a *crime of violence.* Hence, domestic violence is not just a crime involving a family, but a *violent crime* where the family is involved. And its main difference from other types of crimes is that there is always the choice of the victim or the defendant to reconcile or not.

Under this law, domestic violence occurs against a spouse, a former spouse, or a cohabitant, who may not necessarily be male and female living together. A lot of their domestic violence cases involve gay lovers. Also, two people who are engaged in a long-term relationship, but not necessarily living together; a person related by blood or affinity to the second degree; children perpetrators such as those who beat up their elders, may be tried for domestic violence. A man who beats up the mother of his child, even if they have already been separated for years, may also be convicted.

Furthermore, domestic violence is a crime that involves power and control, originating from domestic abuses. Major domestic abuses committed include: *intimidation* or deep staring and weapon brandishing; *emotional abuse* or chronic blaming, calling of names, playing mind games, such as making the spouse think that she is crazy, humiliating of the spouse in private and public; *isolation* or the controlling of what the spouse does, whom she talks with, where she goes, who she can associate with, often justified by feelings of jealousy; and *economic abuse* such as prohibiting the woman to get a job and at the same time denying her access over the family income.

Judge Ong pointed out that domestic abuse is not necessarily domestic violence that is prosecutable as a crime, but it may definitely be a ground for divorce or separation. It becomes domestic violence when there is already injury involved for, in his words, it takes an evil mind to beat up somebody, to choke somebody, or to take a kitchen knife and cut a person's face. Hence domestic violence is NOT a family problem, but a crime of violence. The guilty party must admit responsibility and accountability for his violence.

The most common forms of domestic violence are assault and stalking. *Assault* is an infliction of bodily injury, the degree and proof of which is very important in order to convict someone of domestic violence. Bail for assault amounts to $50,000.

Stalking, on the other hand, was originated by Hollywood stars who lobbied for a stalking law against the paparazzis who obsessively followed them around. In the U.S., it is a felony to stalk someone. It is now defined as a crime against any person who lawfully, maliciously, and repeats to follow another person around, and makes credible threats that the victim or the defendant starts to fear not only for his/her safety, but also for those around him/her, that is, his immediate family which comprise the spouse, parents, child, and second degreee relations of affinity or consaguinity.

According to Judge Ong, if the person is incapable of carrying out the threat, or if the person does not fear for his/her safety, then the threat cannot be constituted as a *credible threat.* Moreover, there must be sustained fear on the part of the defendant.

He strongly advises the use of experts in domestic violence cases. He believes that experts are necessary in order to explain why a beating happened, and why there could be denial and a "shifting of lane" on the part, for instance, of a tall, female victim who would suddenly assert that her blackeye was caused by the doorknob.

Indeed, there used to be a time when domestic violence was treated like drug cases where the accused only needed to get counselling and complete treatment for six months in order for the case to be dismissed. Judge Ong is satisfied to see that this no longer happens, that domestic violence is now perceived and defined as a *crime of violence,* a criminal behavior, and not a family problem.

Judges Trained for Family Courts

The Philippine Judicial Academy (PHILJA), in cooperation with the British Embassy, conducted a ***Training Program for Family Court Judges*** from March 21-24, 2000 at the Development Academy of the Philippines in Tagaytay City. Forty-seven judges from the various Regional Trial Courts (RTCs) designated as Family Courts by the Supreme Court, as well as some court social workers, attended the four-day seminar-workshop. The family courts started operation in March, 2000.

The program focused on how to implement the Family Courts Act of 1997, R.A. No. 8369, a landmark legislation that recognizes the special place of the family in the society as a basic social institution. In addition, it assessed the jurisdiction of Family Courts in relation with existing procedural and substantive laws, and pertinent international agreements entered into by the Philippine government. It discussed international best practices of family courts in other jurisdictions, and imparted to the judges-participants skills necessary for handling family court cases.

PHILJA Chancellor Justice Ameurfina A. Melencio Herrera, welcomed the judges and other participants in their new roles in her Opening Remarks, while the Honorable Chief Justice Hilario G. Davide, Jr., in his Inspirational Message during the Closing Ceremonies, reminded the participants that:

> "You are not ordinary judges who rule according to the evidence and the applicable laws in specific instances. Your decisions affect not just the private fate and rights of individuals; they would affect the very foundation of the Filipino nation.
>
> You are, verily, instruments in the protection and preservation of the family. In a larger sense, you are instruments of peace and solidarity for Filipino homes. Indeed, much is demanded from you. For this you must not complain. Only from those to whom much has been given by God that much is demanded."

(Continued on next page)

(Continued from page 1)

This was the first advanced JCEP program and the first time that a Panel Discussion on "The Courts and the Problems of the Philippine Business Sector" was held with prominent bankers and businessmen. In a "Forum," Director Armytage discussed with the Corps of Professors of the Academy "Program Planning including Needs Assessment, Program and Curriculum Planning."

Before that activity was another collaborative endeavor with the Centre for Democratic Institutions of the Australian National University, which arranged a judicial exchange program between Australia and the Philippines. Eight Philippine Justices and Judges were invited to Australia to observe the judicial systems thereat. In the Philippines, in turn, Justices Bryan Beaumont and Arthur Emmett of the Federal Court of Australia and selected Philippine Executive Judges engaged in a Colloquium and Dialogue on such topics as Court and Case Management, and Practice and Procedure. The same Justices of the Federal Court of Australia and our Justices of the Court of Appeals and the Sandiganbayan held a Dialogue on Appellate Remedies and The Problem of Caseload, among others.

On June 19, PHILJA commenced the first Pre-Judicature Program. R.A. 8557 directs that aspirants for judicial posts must complete the required PHILJA course as a prerequisite to nomination by the Judicial and Bar Council. The program will consist of two phases.

We are gratified by the favorable comments we have received on PHILJA's publications. We continue to explore other avenues of reaching out, and more frequently, to judges, court personnel and hearing officers of quasi-judicial offices. Distance education is among them. There is much to be done. To the best of its ability, PHILJA will respond.

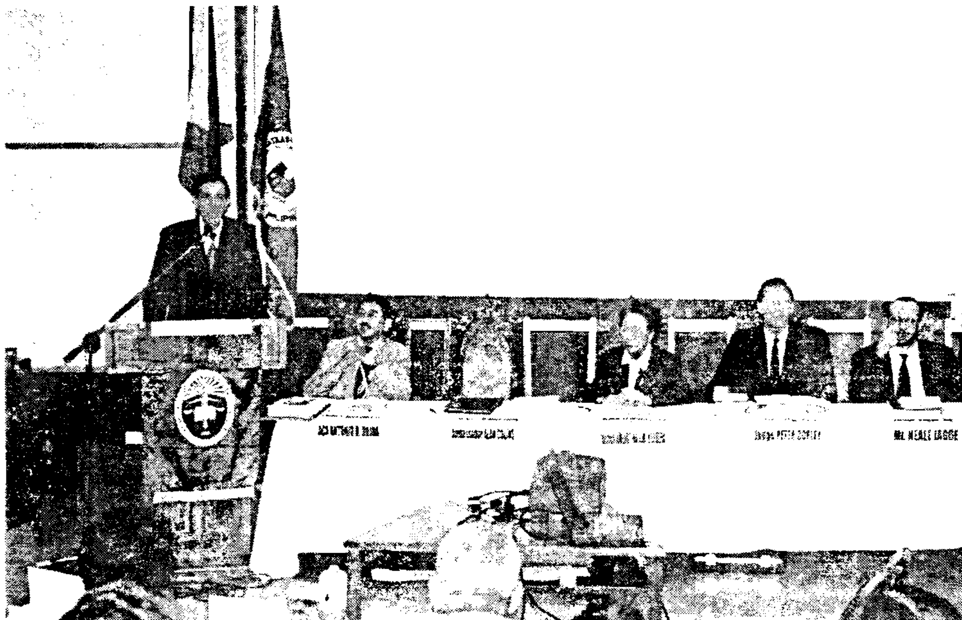
(Continued from previous page)

Her Britannic Majesty's Ambassador Alan Collins keynoted the event and introduced the participation of the Honorable Judge Peter Copley, a consultant sponsored by the British government, who shared the British Family Court experience.

Delivered were lectures on various aspects of the Family Court Law, i.e., pertinent international human rights standards, family courts' jurisdiction, adoption, nullity and annulment of marriage, rules of court and humane court environment, mediation and counselling in domestic relations, and other Family Code provisions.

The judges-participants who viewed the tape on video-conferencing of child witness testimony were divided into three groups thereafter to try out the video-conferencing equipment installed at the Ridge Convention Center. The video-conferencing equipment was donated by UNICEF. Another set had been installed at the sala of Judge Rosalina Pison, Br. 107, Quezon City for demonstration purposes only, pending adoption of applicable Rules by the Supreme Court.

Observers who attended the seminar-workshop include Mr. Daniel Painter and Ms. Karen Jimenez from the British Embassy; Attorney Albert Muyot and Attorney Mary Grace Agcaoili from UNICEF; Ambassador Benjamin Domingo, Attorney Judy Lorenzo, Attorney Gil Salcedo, and Ms. Leslie Santos from the Department of Foreign Affairs; Chairman Aurora Reciña and Director Karen Dumpit from the Commission on Human Rights; and Assistant Secretary Lourdes Balanon, Director Gloria B. Galvez and Mr. Jess Far from DSWD-SWADI.



Ambassador Allan Collins and Judge Peter Copley, Honorable guests from Britain, and Mr. Neale Jagoe from the British Embassy, join PHILJA Chancellor Ameurfina A. Melencio Herrera and SC ACA Antonio H. Dujua in the Training Program for Family Court Judges.

Family Court judges-participants listen intently to the lecturers in the training program.

Australia-Philippines Judicial Project a Success

Judges-participants get ready for a group picture with (from left) Fr. Ranhilio C. Aquino, Justice Bryan Alan Beaumont, Justice Arthur Robert Emmett, PHILJA Vice-Chancellor Antonio M. Martinez, and PHILJA Chancellor Ameurfina A. Melencio Herrera in Tagaytay City after the colloquium.

The two phases of the Australia-Philippines Judicial Project successfully ended last 30 March 2000. With the objective of *"Strengthening Judicial Training in the Philippines,"* the project comprised of familiarization with the legal and judicial systems of the two countries, observations and study tours of the different courts in these countries, and consultations with members of those courts.

The project, conceived by the Honorable Chief Justice Hilario G. Davide, Jr. and Director Roland Rich of the Center for Democratic Institutions (CDI), is an exchange program between Philippine and Australian Justices and judges arranged by the CDI of the Australian National University in Canberra and the Supreme Court through the Philippine Judicial Academy (PHILJA).

In the Australian phase of the project, Supreme Court Justice Bernardo P. Pardo, Court of Appeals Justice Romeo J. Callejo, Sr., Sandiganbayan Justice Cipriano A. Del Rosario, and RTC Judges Adriano R. Osorio, Josefina G. Salonga, Neri G. Duremdes and Virginia H. Europa, and Retired Justice Antonio M. Martinez representing the Philippine Judicial Academy (PHILJA), went to Sydney, Australia on March 6 to 17, 2000.

The Philippine phase had two Australian Federal Court Judges – in the persons of Justice Bryan Alan Beaumont and Justice Arthur Robert Emmett – as exchange visitors here in Manila from March 28-30, 2000.

The *Colloquium and Dialogue between Australian Federal Court Judges and Philippine Executive Judges* was held from March 28 to 29, 2000 at the Philippine Judicial Academy, Tagaytay City. PHILJA Chancellor Ameurfina A. Melencio Herrera welcomed Justice Beaumont, Justice Emmett and the forty-one (41) judges-participants from the various judicial regions in the country in her Opening Remarks. The dialogues centered on Court and Case Management, Practice and Procedure, and Expert Evidence.

The *Dialogue between Judges of the Federal Court of Australia and Justices of the Court of Appeals and the Sandiganbayan* was held on March 30, 2000 at the *En Banc* Session Hall, Court of Appeals, Manila. The Honorable Chief Justice Hilario G. Davide, Jr. gave the Inspirational Message while Australian Ambassador John E. Buckley and Justice John Stanley Lockhart joined Justice Beaumont and Justice Emmett in the dialogue with the appellate Justices regarding *Appellate Remedies including Prerogative Writs, Appellate Practice and*

(Continued on next page)

(Continued from previous page)

Procedure, The Problem of Caseload: Unclogging the Docket, and *Decision-Writing on the Appellate Level.*

In his Inspirational Message, Chief Justice Davide expressed his vision on continuing judicial education:

> "Our pursuit for continuing judicial education is premised on the undeniable truism that the law is dynamic. The law must adapt to social upheavals if it is to respond appropriately to new challenges and conditions. Our knowledge of the law, therefore, must not remain shackled to the past, mired in antiquity. This, I believe, is the spirit behind continuing legal and judicial education.
>
> x x x
>
> Verily, judicial knowledge and wisdom should not be sourced solely from within the Philippine Judiciary but also from without, that is, from other jurisdictions.
>
> x x x
>
> Just as the Olympics is animated by the spirit of cooperation towards global harmony, we shall transcend borders with our association with the Australian Judiciary which we hope shall be a model for achieving global understanding at least with respect to the judicial sector."

He urged all members of the Judiciary to enhance their knowledge of the law and elevate their perspective to a global level in order to be able to meet head on the challenges of the future, of this New Millennium.

SC REQUIRES COMPREHENSIVE STUDY PROGRAM FOR ASPIRANTS TO JUDICIAL POSTS

Aspirants to judgeship positions now need to show satisfactory performance in the High Court's newly commenced Pre-Judicature program.

The program, which has two phases, was organized by the Philippine Judicial Academy (PHILJA), the Court's education arm, based on the provisions of R.A. 8557, the statutory charter of PHILJA. It is the first ever in the history of Philippine Judiciary.

The program was formally commenced last June 19, 2000 with Retired Justice Ameurfina A. Melencio Herrera, Chancellor of the Academy, presiding over the ceremonies. Former Justice Minister Ricardo C. Puno, Sr. chaired the program, while legal luminaries and PHILJA's distinguished professors comprised the program's roster of lecturers and discussants.

Approximately one hundred (100) lawyers and judges of First Level and Second Level Trial Courts and the Court of Tax Appeals attended ten (10) days of lectures and workshops during the first phase of the program, which culminated on June 30.

Phase I of the Pre-Judicature program provided its participants with the constitutional foundations of the Judiciary in a democratic system. There were values clarification and orientation sessions aimed at setting a premium on the cultivation of worthwhile and desirable values for prospective members of the Bench; sessions on legal research, court technology, judicial writing, bench-media relations and judicial communication, as well as lectures on theories of law and jurisprudence aimed at providing aspirants with a broader philosophical perspective.

The second phase of the program, scheduled for July 17 to 28, will focus on substantive and remedial law.

Under the provisions of R.A. 8557, only aspirants who have completed the appropriate program of the Academy may be nominated or promoted to judicial posts. In effect, satisfactory performance at the Pre-Judicature program is now an additional qualification for nomination and appointment to the courts.

PHILJA CONDUCTS FIRST ADVANCED COURSE ON JUDICIAL CAREER ENHANCEMENT PROGRAM FOR FIRST AND SECOND LEVEL TRIAL COURT JUDGES

ADVANCED JCEP

The Philippine Judicial Academy (PHILJA) conducted its first ***advanced course*** on ***Judicial Career Enhancement Program*** for First and Second Level Trial Court Judges at the Judicial Development Center in Tagaytay City last May 23 to 26, 2000. Forty-three judges attended and had the opportunity to listen to and participate in discussions on Developments in International Law and Philippine Courts; the Problems of the Philippine Business Sector and the Courts; Electronic Commerce and the Law; DNA Tests and the Laws on Evidence; Environmental Law and Ecological Concerns; Conflict of Laws; and Alternative Dispute Resolution.

One of the highlights of the three-day seminar was the lecture of Director Livingston Armytage from the Centre for Judicial Studies, Australia, who discussed with the participants instructional techniques such as the use of educational aids during formal presentations and workshops, and the application of the principles of adult and professional learning to Judges. Director Armytage also conducted a special program planning session with the PHILJA Corps of Professors on the topics of Needs Assessment, and Program and Curriculum Planning.

JUDGES AS LEARNERS

According to Director Armytage, the key to efficient and effective learning is to vary one's learning techniques. The four major learning styles are: *Activist* or learning through experience or trial and error; *Reflector* or learning through watching; *Theorist* or learning through abstract conceptualization; and *Pragmatist* or learning through active experimentation. An adult learner may have a predominant learning preference, but an integration of two or more learning styles is the most effective. Moreover, the more senses are involved, the greater is the learning integration. Listening, for instance, is a very difficult way of learning since it only results to 20% retention.

In Australia, judicial training through reading and lecturing, the didactic lecture model, is no longer relied upon. Site visits, workshops, and role-playing are the commonly used training techniques since they involve not just the intellect of the participants, but also their emotions and experiences. These techniques lead to 90% retention and are most appropriate to judges as adult learners since inherent in these techniques is the learning style of building on one's experience.

JUDGES AS TRAINORS

The best trainors of judges are judges themselves. However, Director Armytage finds that many focus too much on the content, failing to "marry" this with process. The result is that the judges-trainors become lecturers instead of facilitators, and judicial training a replication of university pedagogical learning. There ought to be a marriage between content and process, with the substance of the content being delivered in a manner conducive to learning. This is highly important in the case of adult learners whose major difference from their younger counterpart is that they are no longer "sponges." The knowledge and wisdom that they have will be mostly based on their experience.

Indeed, a brainstorming session done with the participants resulted to a major opinion that the traditional method of lecturing has far more limitations than strengths which include superficial coverage of topics, unstimulating and boring, and gaining of irrelevant and abstract knowledge.

Suggested training techniques or facilitation models are facilitated discussions which build directly on the actual experience of the participants; ice-breakers or short group exercises which lower barriers, energize and increase participation of participants; brainstorming or the creation of participation through spontaneous discussion; buzz groups or small group (4 to 6 persons) discussion for more intense and specific identification of issues; and role play or the dramatization of real life situations with the participants as the actors.

(Continued on page 11)

SUPREME COURT MODIFIES 'WENPHIL'; GIVES IT MORE TEETH

An employee who is found to have been dismissed for a just or authorized cause but was denied notice and/or hearing is entitled to full backwages from the time that his employment was terminated up to the time the decision in his case becomes final.

This is the ruling of the Supreme Court in *Ruben Serrano v. NLRC and Isetann Department Store* (G.R. No. 11704, January 27, 2000).

Voting 10-5, the Supreme Court found it necessary to re-examine the *Wenphil* doctrine since "the number of cases involving dismissal without the requisite notice to the employee, although effected for just or authorized causes, suggests that the imposition of fine for violation of the notice requirement has not been effective in deterring violations of the notice requirement."

The *Serrano* case involved a security section head whose employment was terminated by the Isetann Department Store on the ground of "retrenchment" as it decided to contract its security services to an independent security agency. Isetann gave Ruben Serrano his notice of termination on October 11, 1991 – the same date on which the termination was also made effective.

Serrano filed a complaint for illegal dismissal with the Arbitration Branch of the National Labor Relations Commission (NLRC). The Labor Arbiter concluded that Serrano was illegally dismissed since Isetann allegedly failed to establish its bases for the retrenchment and to afford Serrano due process. The Labor Arbiter ordered Isetann to reinstate Serrano to his former or equivalent position and payment of unpaid wages, without loss of seniority rights and benefits.

On appeal by Isetann, the NLRC reversed the conclusion of the Labor Arbiter by upholding Serrano's termination. Later, it also ordered the payment of separation pay, unpaid salary and proportionate 13th month pay.

Serrano filed a petition with the Supreme Court to question the twin resolutions of the NLRC. In its Decision dated January 27, 2000, the High Court, speaking through Justice Vicente V. Mendoza, found that Serrano was dismissed for an unauthorized cause under Article 283 of the Labor Code. It stated that:

> "Indeed, that the phase-out of the security section constituted a "legitimate business decision" is a factual finding of an administrative agency which must be accorded respect and even finality by this Court since nothing can be found in the record which fairly detracts from such finding.
>
> Accordingly, we hold that the termination of petitioner's services was for an authorized cause, i.e., redundancy."

The Court, however, found that Isetann was remiss in its duty to give formal notice to Serrano before terminating his services:

> "Art. 283 (of the Labor Code) also provides that to terminate the employment of an employee for any of the authorized causes, the employer must serve "a written notice on the workers and the Department of Labor and Employment at least one (1) month before the intended date thereof." In the case at bar, petitioner was given a notice of termination on October 11, 1991. On the same day, his services were terminated. He was thus denied his right to be given written notice before the termination of his employment."

In determining what sanction to impose on Isetann for failing to give Serrano the required written notice, the Court observed that the fine or indemnity imposed as a sanction under the *Wenphil* rule did not prove to be an effective deterrent against violations by employers of the notice and hearing requirements. It concluded that the payment of full backwages to the employee in case of such violations should instead be imposed to further discourage employers from disregarding procedures concerning notice and hearing before termination can be effected. In this regard, the Court declared in its Decision that:

> "The need is for a rule which, while recognizing the employee's right to notice before he is dismissed

or laid off, at the same time acknowledges the right of the employer to dismiss for any of the just causes enumerated in Art. 282 (of the Labor Code) or to terminate employment for any of the authorized causes mentioned in Arts. 283-284. If the *Wenphil* rule imposing a fine on an employer who is found to have been dismissed an employee for cause without prior notice is deemed ineffective in deterring employer violations of the notice requirement, the remedy is not to declare the dismissal void if there are just or valid grounds for such dismissal or if the termination is for an authorized cause. That would be to uphold the right of the employee but deny the right of the employer to dismiss for cause. ***Rather, the remedy is to order the payment to the employee of full backwages from the time of his dismissal until the court finds that the dismissal was for a just cause.***

x x x

For the same reason, if an employee is laid off for any of the causes in Arts. 283-284, i.e., installation of a labor-saving device, but the employer did not give him and the DOLE a 30-day written notice of termination in advance, then the termination of his employment should be considered ineffectual and he should be paid backwages. However, the termination of his employment should not be considered void but he should simply be paid separation pay as provided in Art. 283 in addition to backwages." [Emphasis supplied]

The Supreme Court clarified, however, that "the employer's failure to comply with the notice requirement does not constitute a denial of due process, but a mere failure to observe a procedure for the termination of employment which makes the termination of employment merely ineffectual." In other words, the dismissal of an employee for a just or authorized cause is not necessarily rendered illegal by the fact that he was not given prior written notice.

The High Court opined that the "Due Process Clause of the Constitution is a limitation on governmental powers ... (and) does not apply to the exercise of private power, such as the termination of employment under the Labor Code." Moreover, the Court stated:

> "The purpose for requiring a 30-day written notice before an employee is laid off is not to afford him an opportunity to be heard on any charge against him, for there is none. The purpose rather is to give him time to prepare for the eventual loss of his job and the DOLE an opportunity to determine whether economic causes do exist justifying the termination of his employment."

Finally, "the notice requirement . . . cannot be considered a requirement of the Due Process Clause (because) the employer cannot really be expected to be entirely an impartial judge of his own cause."

The Supreme Court thus modified its ruling in *Wenphil* and granted Serrano's petition. The majority voted to refer the case to the Labor Arbiter for the computation of his backwages, in addition to the separation pay already awarded to him by the NLRC.

What is the Wenphil Doctrine?

Before 1989, the rule adopted by the Supreme Court was that the employer was required to reinstate the dismissed worker without loss of seniority rights, as well as to pay him backwages during the period of his separation until his actual reinstatement, if the employer failed to comply with the termination procedure, although the dismissal was for a just cause.

This rule was abandoned by the Supreme Court in 1989 in the landmark case of *Wenphil Corporation v. NLRC* (170 SCRA 69 [1989]). *Wenphil* involved an employee who picked a fight with a co-employee, defying his superiors when they tried to pacify him. The erring employee was suspended in the morning of the following day, and dismissed in the afternoon. He received a formal notice of termination four days later.

The employee filed an illegal dismissal suit against the employer. When the case reached the Supreme Court, it found that the employee was dismissed for a just cause, but without the benefit of a

hearing as required under Article 277(b) of the Labor Code. The High Court held that the employee did not deserve to be reinstated as he was guilty of serious misconduct and insubordination. The Court declared that:

> "The policy of ordering the reinstatement to the service of an employee without the loss of seniority and the payment of his wages during the period of his separation until his actual reinstatement but not exceeding three (3) years without qualification or deduction, when it appears he was not afforded due process, although his dismissal was found to be for just and authorized cause in an appropriate proceeding in the Ministry of Labor and Employment, should be re-examined. It will be highly prejudicial to the interests of the employer to impose on him the services of an employee who has been shown to be guilty of the charges that warranted his dismissal from employment. Indeed, it will demoralize the rank and file if the undeserving, if not undesirable, remains in the service."

However, the employer should be penalized for his failure to observe the termination procedure laid down by the Labor Code, i.e., notice and hearing. The Tribunal stated in its decision in *Wenphil* that:

> "The petitioner (employer) must nevertheless be held to account for failure to extend to the private respondent (employee) his right to an investigation before causing his dismissal. The rule is explicit as above discussed. The dismissal of an employee must be *for just or authorized cause and after due process.* Petitioner committed an infraction of the second requirement. Thus, it must be imposed a sanction for its failure to give a formal notice and conduct an investigation as required by law before dismissing petitioner from employment. Considering the circumstances of this case petitioner must indemnify the private respondent the amount of P1,000.00. The measure of this award depends on the facts of each case and the gravity of the omission committed by the employer."

For more than a decade, the Court consistently applied the *Wenphil* doctrine to subsequent cases involving dismissals for a just or authorized cause where the erring employee was not given any prior notice and/or hearing. The fine or indemnity imposed by the Court ranged from P1,000.00 to P10,000.00, depending on "the facts of each case and the gravity of the omission committed by the employer."

Of course, the *Wenphil* doctrine is not applicable to cases where an employee is dismissed when there is no authorized or just cause at all. In such cases, the reinstatement of the dismissed employee, with the payment of full backwages from the date of his dismissal to actual reinstatement, is declared to be in order. Moreover, an order to reinstate is immediately executory even pending appeal.

Dissenting Opinions

Both Justice Reynato S. Puno and Justice Artemio V. Panganiban voted to grant the petition of Ruben Serrano, i.e., to reinstate him with full back wages from date of termination until actual reinstatement since he was denied "due process" by being deprived of his right to a notice of termination. Justice Consuelo Ynares-Santiago joined Justice Puno in his dissent. Justice Josue N. Bellosillo concurred with the majority in sustaining the validity of Serrano's termination, as did Justice Jose C. Vitug, but differed in the extent of benefits to which Serrano is entitled in view of the non-observance of the notice requirement.

SC Public Information Office

"At the heart of our calling is public service. At the core of public service is public trust. Public trust demands and exacts accountability, responsibility, integrity, loyalty, and efficiency."

Chief Justice Hilario G. Davide, Jr.

(Continued from page 7)

JUDICIAL EDUCATION

Director Armytage differentiated continuing judicial education from continuing legal education. He believes that the former is what judges need for they are already supposedly masters of the latter. Organizations that offer continuing judicial education should not replicate law schools or even masteral degree programs for their specialty is not that of training judges for substantive law, but of training them on judicial skills. "The goal of judicial education is to enhance the quality of justice by raising the professional competence of judges," he states.

Hence judicial education encompasses, among others, effective court practice and procedures, and ways of improving the administration of justice, of preserving the integrity and impartiality of the judicial system, and of assisting judges in acquiring attitudes that will make them perform their judicial responsibilities fairly and efficiently. In this sense, continuing judicial education becomes more than a series of seminars for strict attendance; it is transformed into an agent of change and leadership.

NEW RULING OF THE SUPREME COURT

CRIMINAL LAW

Child Abuse under R.A. 7160; elements of the offense when and how committed; treatment of each incident of child abuse.

The elements of the offense are: (1) the accused commits the act of sexual intercourse or lascivious conduct; (2) that said act is performed with a child exploited in prostitution or subjected to other sexual abuse; and (3) the child whether male or female, is or is deemed under 18 years of age. Exploitation in prostitution or other sexual abuse occurs when the child indulges in sexual intercourse or lascivious conduct (a) for money, profit or any other consideration; or (b) under the coercion or influence of any adult, syndicate or group.

Each incident of sexual intercourse and lascivious act with a child under the circumstances mentioned in Article III, Section 5 of R.A. 7160 is thus a separate and distinct offense. The offense is similar to rape or act of lasciviousness under the Revised Penal Code in which each act of rape or lascivious conduct should be the subject of a separate information. (*Mendoza, J.*, Manolet O. Lavides v. C.A., Hon. Rosalina Luna Pison Presiding over RTC Br. 107, Quezon City and People, GR 129670, February 1, 2000)

Director Livingston Armytage from the Centre for Judicial Studies, Australia shares his knowledge and skills with the judges-participants during the first advanced JCEP seminar.

DOCTRINAL REMINDERS

CIVIL LAW

Res judicata; its fundamental principles and aspects.

Section 47 of Rule 39 of the Rules of Court embodies the fundamental principles of res judicata, finality of judgment and estoppel by judgment, which means that once a judgment has become final and executory, the issues therein litigated upon are laid to rest.

The doctrine of res judicata is of two aspects. The first aspect is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The second aspect precludes the relitigation of a particular fact or issue in another action between the same parties or their successors in interest, on a different claim or cause of action. x x x Since the said issues – validity of the rescission of the conditional sale – had been resolved in the case for specific performance, docketed as Civil Case No. 59367, which already became final and executory, it cannot again be litigated in the instant ejectment case between the Labraque spouses plaintiffs in Civil Case No. 59367 and the herein petitioners who are the successors in interest of the Hernandez spouses without virtually impeaching the correctness of the decision in the said civil case which public policy does not allow. Res judicata inter parties jus facit, i.e., a question adjudicated between the parties after hearing them, makes the law of that question. (*Purisima, J.*, Spouses Rodolfo and Mary Grace Baretto v. C.A., Judge Balagot of Pasig RTC and Spouses Eriberto and Rosalinda Labraque, GR 110259, February 3, 2000)

CRIMINAL LAW

Bail; when granted; arraignment prerequisite to the grant of bail.

In cases where it is authorized, bail should be granted before arraignment, otherwise the accused may be precluded from filing a motion to quash. For if the information is quashed and the case is dismissed, there would then be no need for the arraignment of the accused.

The order of the trial court that approval of accused's bail bonds shall be made only after arraignment is void.

Trials in absentia; stages of trial where not allowed.

Article 111, Section 14 (2) of the Constitution authorizing trials in absentia allows the accused to be absent at the trial but not at certain stages of the proceedings, to wit: (a) At arraignment and plea whether of innocence or guilt; (b) During trial whenever necessary for identification purposes; and (c) At the promulgation of sentence, unless it is for light offense, in which case the accused may appear by counsel or representative. At such stages of the proceedings, his presence is required and cannot be waived. As pointed out in Borja v. Mendoza in an opinion by Justice Fernando, there can be no trial in absentia unless the accused has been arraigned. (*Mendoza, J.*, Manolet O. Lavides v. Court of Appeals, Hon. Rosalina Luna Pison, RTC Judge, Q.C. and People, GR 129670, February 1, 2000)

REMEDIAL LAW

Grounds for dismissal of an action; distinction between failure to state a cause of action and lack of cause of action.

Failure to state a cause of action refers to the insufficiency of allegation in the pleading while lack of cause of action refers to the insufficiency of factual basis for the action. Failure to state a cause may be raised in a Motion to Dismiss under Rule 16 while lack of cause may be raised anytime. Dismissal for failure to state a cause can be made at the earliest stages of an action. Dismissal for lack of cause is usually made after questions of fact have been resolved on the basis of stipulations, admissions or evidence presented. In dismissal for failure to state a cause, the inquiry is into the sufficiency, not the veracity of the material allegations. The test is whether the material allegations, assuming these to be true, state ultimate facts which constitute plaintiff's cause of action, such that plaintiff is entitled to a favorable judgment as a matter of law. (*Kapunan, J.*, Fidel

DOCTRINAL REMINDERS

Dabuco, et.al. v. Court of Appeals and Gabi Multi-purpose Corporation; GR 133775, January 20, 2000)

Injunction; its nature, essential conditions for its grant; and the requisites for its issuance.

Injunction is a preservative remedy for the protection of one's substantive right or interest. It is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation. It rests upon the existence of an emergency or of a special reason before the main case can be regularly heard. The essential conditions for granting such temporary injunctive relief are that the complaint alleges facts which appears to be sufficient to constitute a proper basis for injunction and that on the entire showing from the contending parties,the injunction is reasonably necessary to protect the legal rights of the plaintiff pending the litigation. Two requisites are necessary if a preliminary injunction is to be issued, namely, the existence of a right to be protected and the facts against which the injunction is to be directed are violative of said right. (*Buena, J.*, Spouses Abelardo and Conchita Lopez et.al. v. Court of Appeals and Roberto Vallarta, GR 110929, January 20, 2000)

Supplemental pleading and amended pleading distinguished.

A supplemental pleading is meant to supply deficiencies in aid of the original pleading and not to dispense with or substitute the latter. It is not like an amended pleading which is a substitute for the original one. It does not supersede the original, but assumes that the original pleading is to stand. The issues joined under the original pleading remain as issues to be tried in the action.

In Leobrera v. Court of Appeals, it was ruled that when the cause of action stated in the supplemental complaint is different from the cause of action mentioned in the original complaint, the court should not admit the supplemental complaint. (*Purisima, J.*, Asset Privatization Trust v. Court of Appeals, et.al., GR 81024, February 3, 2000)

Requirement of Certified True Copies; Section 6 of Rule 43 construed.

Section 6 of Rule 1 states that the Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. In line with this guideline, we do not construe the above-quoted section as imposing the requirement that all supporting papers accompanying the petition should be certified true copies. A comparison of this provision with the counterpart provision in Rule 42 governing petitions for review from the RTC to the Court of Appeals would show that under the latter, only the judgments or final orders of the lower courts need be certified true copies or duplicate originals. Also under Rule 45 of the Rules of Court governing appeals by certiorari to the Supreme Court, only the judgment or final order or resolution accompanying the petition must be clearly legible duplicate original or a certified true copy thereof certified by the Clerk of Court of the court aquo. x x x Numerous resolutions of this Court emphasize that in appeals by certiorari under Rule 65 in relation to Rules 46 and 56, what is required to be a certified true copy is the copy of the questioned judgment, final order or resolution. No plausible reason suggests itself why a different treatment, i.e., a stricter requirement should be given to petitions under Rule 43 which governs appeals from the Court of Tax Appeals and quasi-judicial agencies to the Court of Appeals. (*Gonzaga-Reyes, J.*, Ricardo C. Cadayona v. Court of Appeals and the Provincial Governor of Leyte, GR 128772, February 3, 2000)

Jurisdiction of Sandiganbayan over municipal mayor; salary grade for municipal mayors.

To determine whether the official is within the exclusive jurisdiction of the Sandiganbayan, reference should be made to Republic Act No. 6758 and the Index of Occupational Services, Position Titles and Salary Grades. An official's grade is not a matter of proof, but a matter of law which the court must take judicial notice. Section 444 (d) of the Local Govern-

DOCTRINAL REMINDERS

ment Code provides that the municipal mayor shall receive a minimum monthly compensation corresponding to salary grade 27 as prescribed under R.A. 6758 and the implementing guidelines issued pursuant thereto. Additionally, both the 1989 and 1997 versions of the Index of Occupational Services, Position Titles and Salary Grades list the municipal mayor under salary grade 27. Consequently the cases against petitioner or municipal mayor for violations of Republic Act 3019, as amended, are within the exclusive jurisdiction of the Sandiganbayan. (*Pardo, J.*, Crescente Llorente, Jr. v. Sandiganbayan and People, GR 122297-98, January 19, 2000)

LABOR LAW

Independent contractor relationship; factors that determine its existence; labor-only contracting; its nature; requirements for lawful dismissal of an employee.

Jurisprudential holdings are to the effect that in determining the existence of an independent contractor relationship, several factors might be considered such as: (1) whether the contractor is carrying on an independent business; (2) nature and extent of the work; (3) the skill required; (4) term and duration of the relationship; (5) right to assign the performance of specified pieces of work; (6) control and supervision of the workers; (7) power of the employer with respect to the hiring, firing and payment of the workers of the contractor; (8) control of premises; (9) duty to supply premises, tools, appliances, materials and labor; and (10) mode, manner, and terms of payment.

In labor-only contracting, the employees recruited, supplied or placed by the contractor perform activities which are directly related to the main business of its principal.

Under the Labor Code, the requirements for the lawful dismissal of an employee are two-fold, the substantive and the procedural aspects. Not only must the dismissal be for a valid or authorized cause, the rudimentary requirements of due process – notice and hearing – must, likewise, be observed before an employee may be dismissed. Without the concurrence of the two, the termination would, in the eyes of the law, be illegal. (*Kapunan, J.*, Alexander Vinoya v. National Labor Relations Commission, Regent Food Corporation and/or Ricky See, GR 126586, February 2, 2000)

Absence to constitute abandonment; dismissal on ground of loss of trust and confidence.

For unexplained absence to constitute abandonment, there must be a clear, deliberate and unjustified refusal on the part of the employee to continue his employment, without any intention of returning x x x Mere absence does not suffice to constitute abandonment. The absence must be accompanied by overt acts unerringly showing that the employee simply does not want to work anymore.

The right of an employer to dismiss employees on the ground of loss of trust and confidence must not be exercised arbitrarily and without just cause. For loss of trust and confidence to be a valid ground for dismissal of an employee, it must be substantial and founded on clearly established facts sufficient to warrant the employee's separation from employment. Loss of confidence must not be used as a subterfuge for causes which are improper, illegal or unjustified; it must be genuine, not a mere afterthought, to justify earlier action taken in bad faith. (*Purisima, J.*, Viola Cruz v. NLRC, Norkis Distributors, et.al., GR 116384, February 7, 2000)

"The goal of judicial education is to enhance the quality of justice by raising the professional competence of judges."

"Judicial education is emerging as a potentially significant agent of leadership and change in the rule of law context in Asia, a role which is relatively new in both common law and civil systems of justice."

Excerpts from *"Judicial Education: An Agent of Leadership and Change,"* Dr. Livingston Armytage.

RESOLUTIONS, ORDERS, AND CIRCULARS

SUPREME COURT

AM. NO. 00-2-11-SC

RESOLUTION DESIGNATING CERTAIN BRANCHES OF THE REGIONAL TRIAL COURTS IN REGION III AS SPECIAL COURTS FOR DRUG CASES WHERE THE IMPOSABLE PENALTY IS LOWER THAN DEATH.

WHEREAS, under Resolution of 3 August 1999 in A.M. No. 99-7-20-SC, Branch 10 of the Regional Trial Court of Cebu City was designated as a pilot Special Court for Drug Cases where the imposable penalty is lower than death;

WHEREAS, under Resolution of 22 November 1999 in A.M. No. 99-11-02-SC, some branches of the Regional Trial Courts (RTCs) in other cities were likewise designated as Special Courts for Drug Cases;

WHEREAS, there is an urgent need to designate additional branches of the Regional Trial Court in Region III as Special Courts for Drug Cases to expedite the disposition of cases involving violations of the Dangerous Drugs Act of 1972 (R.A. No. 6425), as amended.

NOW, THEREFORE, pursuant to Section 23 of B.P. Blg. 129, in the interest of speedy and efficient administration of justice, and subject to the guidelines hereinafter set forth, the following Branches of the RTCs in Region III are hereby designated as Special Courts for Drugs Cases, which shall hear and decide all criminal cases in their respective jurisdiction involving violations of the Dangerous Drugs Act of 1972 (R.A. No. 6425), as amended, where the imposable penalty is lower than death:

I. Bulacan: Branches 20 and 76
II. Pampanga: Branch 59

The following guidelines shall be adopted by the designated courts:

(1) The judges of all branches of the RTCs stationed in the above-mentioned cities shall make, within ten (10) days from receipt hereof, an inventory of all criminal cases involving violations of the Dangerous Drugs Act of 1972 (R.A. No. 6425), as amended. The inventory shall indicate the case number; the date the information was filed; the date the accused was arraigned; and the status of each case, i.e., whether it is for arraignment, pre-trial, or decision. Copies of the inventory shall be furnished the Office of the Chief Justice, the Office of the Court Administrator, the Executive Judges of the RTCs concerned, and the Judges of the Branches herein designated.

(2) Drug cases that have not yet reached the arraignment stage shall be transferred to the designated Special Courts, together with their corresponding records, which shall be duly receipted for by the Clerk of Court of the Branch concerned. The transfer shall be effected within thirty (30) days following the submission of an inventory. Those drug cases wherein the accused, or any of them, has already been arraigned shall cohtinue to be heard by the respective branches to which they have been originally assigned and shall be given utmost priority.

(3) Prior to the effectivity of this Resolution, cases before the designated Special Courts other than drug cases, wherein trial has already begun, shall continue to be heard by such Special Courts. For purposes hereof, a criminal case is considered begun when the accused, or any of them, has already been arraigned.

(4) All informations for violations of the Dangerous Drugs Act, as amended, including those filed against minors, where the imposable penalty is lower than death, which are filed after 2

RESOLUTIONS, ORDERS, AND CIRCULARS

January 2000 with the aforementioned RTCs, shall forthwith be assigned to the designated Special Courts in their respective jurisdictions.

(5) The drug cases referred to herein shall undergo mandatory continuous trial and shall be terminated within sixty (60) days from commencement of trial. Judgment thereon shall be rendered within thirty (30) days from submission for decision unless a shorter period is provided by law or otherwise directed by this Court.

(6) No postponements or continuance shall be allowed except for meritorious reasons. Pleadings or motions found to have been filed for dilatory purposes shall constitute direct contempt and shall be punished accordingly.

(7) The Executive Judges of the RTCs concerned shall exclude these designated Special Courts from the raffle of other cases subsequent to the assignment or transfer to them of the drugs cases. The branches which shall have transferred drug cases to the Special Courts shall be given appropriate replacements therefor through raffle. The Executive Judges of the RTCs concerned shall see to it that there shall be an equitable replacement of cases to the affected branches.

(8) In the event of inhibition of the judge of a designated Special Court, the following guidelines shall be observed: (a) Where there is only one Special Court in the station, the inhibiting judge shall immediately furnish the Office of the Chief Justice of his Order of Inhibition in order that another judge is designated to preside over the case; and (b) Where there are two Special Courts in the station, the Executive Judge shall immediately assign the case to the other Special Court, which shall, in turn, unload to the inhibiting judge a case form his docket.

(9) In case of temporary incapacity, absence or disability of the judge of the designated Special Court to perform his duties, the pairing system for multiple sala stations subject of Circular No. 19-98 dated February 18, 1998 shall apply.

(10) The Branches herein designated as Special Courts shall continue to perform their functions as such within the purview of this Resolution even after the retirement, transfer, or detail of the incumbent judges appointed or designated to preside over them. Their successors, whether permanent or temporary, shall act as Presiding Judges of these Special Courts unless the Supreme Court otherwise directs.

This Resolution shall take effect on 15 March 2000.

Let copies of this Resolution be furnished the Office of the Chief Justice; the Offices of the Associate Justices; the Office of the President; the Judicial and Bar Council; the Philippine Judicial Academy; the Office of the Court Administrator; the Office of the Clerk of Court of the Supreme Court; the Secretary of Justice; the Office of the Solicitor General; the Presidents of the Philippine Judges Association, the Philippine Trial Judges League, Inc., and the Metro and City Judges Association of the Philippines; and the Integrated Bar of the Philippines.

APPROVED this 22nd day of February 2000.

(SGD.) DAVIDE, JR., *CJ*, BELLOSILLO, MELO, PUNO, VITUG, KAPUNAN, MENDOZA, PANGANIBAN, QUISUMBING, PURISIMA, PARDO, BUENA, GONZAGA-REYES, YNARES-SANTIAGO, and DE LEON, JR., *JJ*.

RESOLUTIONS, ORDERS, AND CIRCULARS

ADMINISTRATIVE ORDER NO. 80-2000

CREATING THE PERFORMANCE EVALUATION REVIEW COMMITTEE (PERC)

WHEREAS, in its Resolution No. 99-792 dated 11 August 1999, the Civil Service Commission (CSC) prescribed its Revised Policies aimed at enhancing the respective performance evaluation systems of government agencies. The salient features of the Revised Policies are the following:

1. Creation of a Performance Evaluation Review Committee (PERC) in every agency of the government which shall: (a) review and determine the final performance ratings of employees; (b) monitor and evaluate the agency's Performance Evaluation System (PES); and (c) resolve protests of employees who are dissatisfied with the ratings given by their supervisors; and

2. The determination of the over-all rating of an employee by grading not only his actual performance (which accounts for 70% of his over-all rating), but also the critical factors or behavioral dimensions that affect the employee's performance (which accounts to 30% of his over-all rating).

WHEREAS, said CSC Resolution is being implemented by CSC Memorandum Circular No. 13, series of 1999, which requires all agencies of the government to prepare and submit to the CSC, not later than June 30, 2000, their respective modified PES reflecting thereon the Revised Policies enumerated by the CSC, otherwise, the non-submission thereof within the prescribed period shall strictly be a cause for the disapproval of appointments and other related personnel actions.

WHEREAS, presently, the Supreme Court is using two kinds of Performance Evaluation Forms (PEFs) in rating the performance of its employees, *i.e.*, one for supervisors and one for non-supervisors. However, it has no established Performance Evaluation System (PES) reflecting the policies, uses, sanctions, and the manner of appeal relative to performance ratings. Likewise, there is no committee or body that reviews and/or handles grievances or protests of employees who are dissatisfied with the performance ratings given by their supervisors.

WHEREAS, in light of the foregoing and pursuant to CSC MC No. 13, s.1999, the Office of Administrative Services has prepared a draft of the proposed Performance Evaluation Systems (PES) which reflects the revised policies enunciated by the Civil Service Commission and which is applicable to employees of the Court. Some portions of the model agency PES were not considered such as:

a. Submission of performance targets before the rating period to the PERC for confirmation. The performance of some employees in the Court cannot be quantified/measured, as in the case of lawyers doing research work. Thus, instead of submitting a performance target for confirmation by the PERC, the respective offices may be required to submit the functions of their offices and duties of the employees to aid the PERC in determining whether the performance targets of their offices/organizational units have been met.

b. Cross-rating scheme where there are multiple raters as follows:
   1. Supervisory Rater;
   2. Self Rater;
   3. Subordinate Rater;
   4. Peer Rater;
   5. Client Rater.

RESOLUTIONS, ORDERS, AND CIRCULARS

The usual supervisory rater scheme was adopted in this draft.

The Office of Administrative Services has likewise prepared drafts of the Performance Evaluation Forms (PEFs) wherein are introduced modifications of existing PEFs to confirm with the requirements of the CSC.

WHEREAS, the Office of Administrative Services recommends that a Performance Evaluation Review Committee (PERC), be constituted to be initially tasked with the review, revision and/or modification of the draft PES and PEFs prepared by it, prior to the submission of the said documents for the approval of the Chief Justice.

It further recommends that during the review and determination of the rating of an employee, the chief of the office or service to which such employee belongs should be automatically considered as a member of the PERC.

WHEREAS, according to the Revised Policies of the Civil Service Commission on Performance Evaluation System, the composition of the PERC is as follows:

> "2. *Composition*
>
> *The PERC shall be composed of five or more members which shall include the head of agency or his authorized representative as Chairman, highest ranking official in charge of personnel management, head of the planning unit (if there is any), two (2) representatives from the rank and file employees association in the agency, as members. The department heads and division chiefs shall become automatic members of the PERC during the review of their subordinates' performance targ s and performance ratings.*
>
> *Flexibility in determining the maximum of members of the PERC is allowed in consideration of the structure and operation of each agency. Secretariat services for the PERC shall be provided by the Personnel Department or Division."*

NOW, THEREFORE, conformably with the aforementioned recommendation of the Office of Administrative Services, and the above provision of the composition of the PERC, the PERFORMANCE EVALUATION REVIEW COMMITTEE (PERC) of the Supreme Court is hereby created with the following as Chairman and Members:

Chairman: Atty. Maria Yolanda Panaguiton
Attorney VI, Office of the Chief Justice

Vice-Chairman: Atty. Eden Candelaria
Acting Chief, OAS

Members: Mrs. Corazon M. Molo
OIC, OAS-OCA
Atty. Enriqueta E. Vidal
Asst. Clerk of Court, First Division
Atty. Artemio Ruñez
President, SCALE
Mr. Joseph Ang
President, SCEA

Recorder-Secretary: To be designated by the Chairman.

However, in the event of review and determination of the final rating of an employee, the chief of the office or service where such employee belongs should be automatically considered as additional Member of the PERC.

"Every impeccable decision by a trial judge is justice in its purest form. Every guilty person convicted by a trial judge is the law upheld. Every innocent man set free by a trial judge is truth defended."

Chief Justice Hilario G. Davide, Jr.

RESOLUTIONS, ORDERS, AND CIRCULARS

The PERC shall have the following functions and duties:

1. To study, evaluate, review, revise or modify the draft Performance Evaluation System and Performance Evaluation Forms submitted by the Office of Administrative Services and to submit the revised drafts not later than 28 June 2000;

2. To review and determine final performance ratings of employees;

3. To monitor and evaluate the Supreme Court's Performance Evaluation System; and

4. To review and/or handle grievances or protests of employees dissatisfied with the performance ratings given by their supervisors.

This Administrative Order shall take effect on 19 June 2000.

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

(Sgd.) JOSUE N. BELLOSILLO
Chairman, Second Division

(Sgd.) JOSE A.R. MELO
Chairman, Third Division

(per Res. in A.M. No. 99-12-08-SC)

"Judges are the priests of the law, charged with keeping the vestal fires of justice burning...Judging is not only an art; it is also a calling."

Justice Vicente V. Mendoza

"I have no earth-shaking message to impart - only the reminder that we have been appointed, not anointed. We should not make the mistake of believing that we were chosen by or as if by divine election; we are only ordinary mortals chosen by a rational process evolved by men. This will teach us the value of humility - a most valuable trait in any judge.

Humility will impel us to study the law, strive to master it like a law student, because we have no innate familiarity with the law. Hunility will teach us to study each case with a fresh outlook because we have no right to impose our personal bias or prejudgement and we must render justice according to law, not according to our own private personal perceptions of right or wrong. Humility will caution us against seeking popular applause or the approval of media; what is popular is not always right, and we should not be tempted to give way to our passions however provoked. Hunility will remind us that while we wield the gavel in the courtroom, we are not so superior to the litigants and their counsels as to ignore their pleas or their advocacy. And there is never any reason nor occasion to dsplay arrogance in or out of the court. Humility also teaches us patience and perseverance in going about our daily tasks, and to listen to views that differ with our own; we shall make no pretense that we know everything. It is the virtue of humility that will make us fully realize the awesome and tremendous responsibility that attaches to the prerogative to adjudicate cases in our courts.

Oliver Wendel Holmes was asked by a reporter about the secret of his successful judicial career. And he replied, 'Young man, the secret of any success is that a very early age, I discovered I am not God.'"

Justice Minerva Gonzaga Reyes, ***Inspirational Message: 9th Orientation Seminar-Workshop for Newly Appointed Judges,*** **January 22, 1999.**

PHILJA Bulletin

PRIVATE OR UNAUTHORIZED USE TO AVOID PAYMENT OF POSTAGE IS PENALIZED BY FINE OR IMPRISONMENT OR BOTH

3rd Floor of the Supreme Court Building
Taft Avenue, Manila

PRESIDING JUDGE

2000 Upcoming PHILJA Events

Date	Seminars	Venue
April 27-29	Second National Convention-Seminar of the Judicial Assn. of Clerks of the Phils. (JACOPHIL)	Baguio City
April 27-29	Second National Convention-Seminar of the Court Stenographic Reporters Association of the Philippines (COSTRAPHIL)	Cebu Convention Center, Cebu City
May 11-13	Convention-Seminar of the Phil. Assn. of Court Social Workers (PACSW)	Cebu Grand Hotel, Cebu City
May 25-27	4th Biennial National Convention-Seminar of the Union of Clerks of Court of the Philippines (UCCP)	Fine Rock Hotel, Iloilo City
June 8-10	Convention-Seminar of the RTC Clerks of Court	DAP, Tagaytay City
June 26-30	Orientation Seminar-Workshop For Newly Appointed Judges	PHILJA, Tagaytay City
June 19-30	Pre-Judicature Training Program (Phase I)	CA Auditorium, Manila

Chancellor, Philippine Judicial Academy
Justice Ameurfina A. Melencio Herrera

Editor-in-Chief
Dr. Purificacion Valera Quisumbing

Doctrines and Issuances
Atty. Orlando B. Cariño

Features and News
Melanie H. Perez

Circulation and Production
Armida M. Salazar
Queency M. Sara

Layout and Design
Michael S. Santos
Alvern Q. Rosas

Printing
Emmanuel C. Ignacio

The *PHILJA Bulletin* is published quarterly by the Research and Publications Office of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Building, Taft Avenue, Manila. Tel. Nos. 522-3249 ; Telefax No. 525-8939
E-mail address: philja@evoserve.com