

**CONSOLIDATED AND REVISED GUIDELINES TO  
IMPLEMENT THE EXPANDED COVERAGE OF COURT-  
ANNEXED MEDIATION (CAM) AND JUDICIAL DISPUTE  
RESOLUTION (JDR)**

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**THE PHILIPPINE MEDIATION CENTER OFFICE (PMCO)  
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**REPUBLIC OF THE PHILIPPINES**  
**SUPREME COURT**  
**Manila**

**TO: 1. ALL COURTS WHERE PHILIPPINE MEDIATION CENTER UNITS HAVE BEEN ESTABLISHED.**

**2. ALL COURTS IN THE PROVINCES OF PAMPANGA, NEGROS OCCIDENTAL, BENGUET, LA UNION, MISAMIS ORIENTAL, MAKATI CITY, AND SUCH OTHER AREAS TO BE ESTABLISHED FOR JUDICIAL DISPUTE RESOLUTION (JDR) [FORMERLY UNDER THE JUSTICE REFORM INITIATIVES SUPPORT (JURIS) PROJECT]**

**SUBJECT: CONSOLIDATED AND REVISED GUIDELINES<sup>1</sup> TO IMPLEMENT THE EXPANDED COVERAGE OF COURT-ANNEXED MEDIATION (CAM) AND JUDICIAL DISPUTE RESOLUTION (JDR)**

**PART ONE**

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<sup>1</sup> Consolidation entailed the integration of the original guidelines separately governing Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR), together with all their respective amendments and revisions into a single consolidated guidelines that will supplant said earlier issuances that are in conflict or inconsistent with these consolidated guidelines.

## **GENERAL PROVISIONS AND COVERAGE**

### **Concept of court diversion of pending cases**

The diversion of pending court cases both to Court-Annexed Mediation (CAM) and to Judicial Dispute Resolution (JDR) is plainly intended to put an end to pending litigation through a compromise agreement of the parties and thereby help solve the ever-pressing problem of court docket congestion. It is also intended to empower the parties to resolve their own disputes and give practical effect to the State Policy expressly stated in the ADR Act of 2004 (R.A. No. 9285), to wit:

*“to actively promote party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangement to resolve disputes. Towards this end, the State shall encourage and actively promote the use of Alternative Dispute Resolution (ADR) as an important means to achieve speedy and impartial justice and de-clog court dockets.”*

### **1.1 Indigenous ADR under CAM**

Such State Policy promoting party autonomy, would necessarily include recognition of indigenous modes of dispute resolution.

### **1.2 The Three Stages of Diversion**

Simply stated, court diversion is a three-stage process. The first stage is the Court-Annexed Mediation (CAM) where the judge refers the parties to the Philippine Mediation Center (PMC) for the mediation of their dispute by trained and accredited mediators.

Upon failing to secure a settlement of the dispute during the first stage, a second attempt is made at the JDR stage. There, the JDR judge sequentially becomes a mediator-conciliator-early neutral evaluator in a continuing effort to secure a settlement. Still failing that second attempt, the mediator-judge must turn over the case to another judge (a new one by raffle or nearest/pair judge) who will try the unsettled case. The trial judge shall continue with the pre-trial proper and, thereafter, proceed to try and decide the case.

The third stage is during the appeal where covered cases are referred to the PMC-Appeals Court Mediation (ACM) unit for mediation.

The ultimate common end of both the *Katarungang Pambarangay* Law and Court-Annexed Mediation is to restore the role of the judiciary as the forum of last recourse to be resorted to only after all prior earnest efforts to arrive at private accommodation and resolution of disputes have failed.

### **Rationale for expanded mediation jurisdiction over the civil liability for more serious offenses**

Deterrence, which is achieved from a consistent and swift imposition of the appropriate penalty imposed for the crime committed, is the principle upon which societal security rests. It is for this reason that Article 2034 of the Civil Code provides that:

*“There may be a compromise upon the civil liability arising from the offense, but such*

*compromise shall not extinguish the public action for the imposition of the legal penalty.”*

It is significantly important to note that the above-quoted statutory provision does not restrict the crime mentioned to the gravity of the imposable penalty as a condition for allowing a compromise agreement to be reached on the civil liability arising from the crime. Presumably, therefore, the allowed compromise of civil liability applies to all crimes, subject only to the policy considerations of deterrence variables arising from the celerity, certainty and severity of punishment actually imposed.<sup>2</sup>

Expansion of mediation jurisdiction over less grave felonies (punishable by correctional penalties of not exceeding 6 years)<sup>3</sup> is justified since, presumably, the deterrent effect upon which societal security rests is not the principal purpose of correctional penalties. They are intended for the rehabilitation and correction of the offender. It is for this reason that offenses punishable by correctional penalties are subject to probation.<sup>4</sup>

The qualified offender granted probation is given conditional freedom and released to society. It is further relevant and significant to note that the Department of Justice has initiated and is running a program of training prosecutors to be mediators for criminal cases where the imposable penalty does not exceed six (6) years.<sup>5</sup>

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<sup>2</sup> The English Utilitarian posits that of the 3 variables, severity of penalty is the least important.

<sup>3</sup> Article 9, in relation to Article 25, Revised Penal Code.

<sup>4</sup> The Probation Law, Act No. 4221, as amended.

<sup>5</sup> DOJ mediation program.

In contrast, the penalties classified under the Revised Penal Code as afflictive and capital <sup>6</sup> are explicit that their purpose is punishment. Probation is denied to convicts who are imposed said afflictive penalties, thereby showing that isolation from society through imprisonment is necessary for the protection of society. Thus, the imposition of afflictive punishment for grave offenses is surely the underlying basis for achieving the principle of deterrence, not only of the person punished but also of the general public, through the principle of exemplarity.

Further, the expansion to less grave offense is needed if a greater impact of court diversion of pending cases is to be achieved. This is so since civil cases constitute only a small 16% of all cases filed in court, while special proceedings constitute even a smaller 7.6%. <sup>7</sup>

Under the expanded jurisdiction of the first level courts<sup>8</sup>, all less grave felonies will fall under their original and exclusive jurisdiction<sup>9</sup>.

### **3. Mandatory Coverage for Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR)**

The following cases shall be 1) referred to Court-Annexed Mediation (CAM) and 2) be the subject of Judicial Dispute Resolution (JDR) proceedings:

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<sup>6</sup> Article 25 of the RPC categorizes these penalties as those punishable with *prision mayor, reclusion temporal, reclusion perpetua and death* (6 years and 1 day, 20 years and life imprisonment to death). See Table of Penalties under Article 76.

<sup>7</sup> Summary Report of Cases for 2006 shows that only 108,855 civil cases were pending at the end of the period, while 524,685 criminal cases were similarly pending.

<sup>8</sup> R.A. No. 7691 expanded the jurisdiction of the first level courts to crimes punishable by imprisonment not exceeding 6 years, irrespective of the amount of fine.

<sup>9</sup> Section 32 (2), BP 129, The Judiciary Reorganization Act of 1980.

- (1) All civil cases and the civil liability of criminal cases covered by the Rule on Summary Procedure, including the civil liability for violation of B.P. 22, except those which by law may not be compromised;
- (2) Special proceedings for the settlement of estates;
- (3) All civil and criminal cases filed with a certificate to file action issued by the *Punong Barangay* or the *Pangkat ng Tagapagkasundo* under the Revised *Katarungang Pambarangay Law*<sup>10</sup>
- (4) The civil aspect of Quasi-Offenses under Title 14 of the Revised Penal Code;
- (5) The civil aspect of less grave felonies punishable by correctional penalties not exceeding 6 years imprisonment, where the offended party is a private person;
- (6) The civil aspect of estafa, theft and libel;
- (7) All civil cases and probate proceedings, testate and intestate, brought on appeal from the exclusive

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<sup>10</sup> Chapter 7, Local Government Code of 1991, R.A. No. 7160, essentially re-enacts the *Katarungang Pambarangay* Law with some revisions and, therefore, is referred to as the Revised KB Law.

and original jurisdiction granted to the first level courts under Section 33, par. (1) of the Judiciary Reorganization Act of 1980;<sup>11</sup>

(8) All cases of forcible entry and unlawful detainer brought on appeal from the exclusive and original jurisdiction granted to the first level courts under Section 33, par. (2) of the Judiciary Reorganization Act of 1980;<sup>12</sup>

(9) All civil cases involving title to or possession of real property or an interest therein brought on appeal from the exclusive and original jurisdiction granted to the first level courts under Section 33, par.(3) of the Judiciary Reorganization Act of 1980;<sup>13</sup> and

(10) All habeas corpus cases decided by the first level courts in the absence of the Regional Trial Court judge, that are brought up on appeal from the special jurisdiction granted to the first level courts under Section 35 of the Judiciary Reorganization Act of 1980;<sup>14</sup>

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<sup>11</sup> A.M. No. 08-9-10-SC-PHILJA-Re: Guidelines to Implement Mediation in the Regional Trial Courts Acting as Appellate Courts in Appeals from First Level Courts approved by the Court *En Banc* on 10 February 2009

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

The following cases shall not be referred to CAM and JDR:

1. Civil cases which by law cannot be compromised (Article 2035, New Civil Code);
2. Other criminal cases not covered under paragraphs 3 to 6 above;
3. Habeas Corpus petitions;
4. All cases under Republic Act No. 9262 (Violence against Women and Children); and
5. Cases with pending application for Restraining Orders/Preliminary Injunctions.

However, in cases covered under 1, 4 and 5 where the parties inform the court that they have agreed to undergo mediation on some aspects thereof, e.g., custody of minor children, separation of property, or support *pendente lite*, the court shall refer them to mediation.

## **PART TWO**

### **COURT-ANNEXED MEDIATION (CAM)**

**TO: ALL JUDGES OF COURTS WHERE PHILIPPINE MEDIATION CENTER (PMC) UNITS HAVE BEEN ESTABLISHED.**

#### **Procedure**

1. After the last pleading has been filed, the judge shall issue an order requiring the parties to forthwith appear before the concerned Philippine Mediation Center (PMC) Unit staff to start the process for the settlement of their dispute through mediation. On the same date, the court shall give to the PMC a copy of the Order for mediation.
2. Individual parties are required to personally appear for mediation. In the event they cannot do so, they can send their representatives who must be fully authorized to appear, negotiate and enter into a compromise, through a Special Power of Attorney.
3. Corporations, partnerships, or other juridical entities shall be represented by a ranking corporate officer fully authorized by a Board Resolution to offer, negotiate, accept, decide and enter into a compromise agreement, without need of further approval by or notification to the authorizing party.
4. The Order issued shall include a clear warning that sanctions may be imposed upon a party for

failure to comply therewith, in accordance with the Section below on sanctions.

5. On the date set in the Order, the parties shall proceed to select a mutually acceptable mediator from among the list of accredited mediators. If no agreement is reached, the PMC Unit Staff shall, in the presence of the parties and the Mediators, choose by lot the one who will mediate the dispute from among the Mediators inside the Unit, ensuring a fair and equal distribution of cases: Provided, however, that in exceptional circumstances where special qualifications are required of the mediator, the parties shall be given an opportunity to select from the entire list of accredited mediators.
6. The Mediator shall be considered an officer of the court while performing his duties as such or in connection therewith.
7. The concerned Mediator shall forthwith start the mediation process, unless the parties and mediator agree to reset the initial mediation conference, which shall not be later than five (5) days from the original date.
8. At the initial conference, the Mediator shall explain to both parties the mediation process, stressing the benefits of an early settlement of their dispute based on serving their mutual interests, rather than the legal positions taken by them.
9. With the consent of both parties, the Mediator may hold separate caucuses with each party to

determine their respective real interests in the dispute. Thereafter, another joint conference may be held to consider various options that may resolve the dispute through reciprocal concessions and on terms that are mutually beneficial to both the parties.

10. The Mediator shall not record in any manner the proceedings of the joint conferences or of the separate caucuses. No transcript or minutes of mediation proceedings shall be taken. If personal notes are taken for guidance, the notes shall be shredded and destroyed. Should such record exists, they shall not be admissible as evidence in any other proceedings.
11. If no settlement has been reached at the end of the period given, the case must be returned to the referring judge.

### **Sanctions**

The court, upon recommendation of the Mediator, may impose sanctions upon a party who fails to appear before the Philippine Mediation Center (PMC) Unit as directed by the referring judge, or upon any person who engages in abusive conduct during mediation proceedings, as provided for in the Rules of Court as part of the Pre-Trial and other issuances of the Supreme Court, including, but not limited to censure, reprimand, contempt, requiring the absent party to reimburse the appearing party his costs, including attorney's fees for that day up to treble such costs, payable on or before the date of the re-scheduled setting. Sanctions may also be imposed by the referring judge upon his own initiative or upon motion of the interested party.

Upon justifiable cause duly proved in the hearing called on the motion to reconsider filed by the absent party, concurred in by the concerned mediator, the sanctions imposed may be lifted or set aside in the sound discretion of the referring judge.

### **Duration of Mediation in the PMC**

The Mediator shall have a period of not exceeding thirty (30) days to complete the mediation process. Such period shall be computed from the date when the parties first appeared for the initial conference as stated in the Order to appear. An extended period of another thirty (30) days may be granted by the court, upon motion filed by the Mediator, with the conformity of the parties.

### **Suspension of periods**

The period during which the case is undergoing mediation shall be excluded from the regular and mandatory periods for trial and rendition of judgment in ordinary cases and in cases under summary proceedings.

### **Settlement**

If full settlement of the dispute is reached, the parties, assisted by their respective counsels, shall draft the compromise agreement which shall be submitted to the court for judgment upon compromise or other appropriate action. Where compliance is forthwith made, the parties shall instead submit a satisfaction of claims or a mutual withdrawal of the case and, thereafter, the court shall enter an order dismissing the case.

If partial settlement is reached, the parties shall, with the assistance of counsel, submit the terms thereof for the

appropriate action of the court, without waiting for resolution of the unsettled part.

In relation to the unsettled part of the dispute, the court shall proceed to conduct JDR proceedings in accordance with PART THREE hereof where JDR is available.

## **PART THREE**

### **JUDICIAL DISPUTE RESOLUTION**

#### **I. Mandate**

Unless otherwise directed by the Supreme Court, all judges who have undergone orientation in JDR procedures and completed their training in mediation, conciliation and neutral evaluation, are authorized to conduct JDR proceedings in accordance with these guidelines for the settlement of disputes pending in their courts, after the parties failed to settle their disputes during Court Annexed Mediation at the Philippine Mediation Center Units (PMCU).

#### **II. Procedure**

Judicial proceedings shall be divided into two stages: (1) from the filing of a complaint to the conduct of CAM and JDR during the pre-trial stage, and (2) pre-trial proper to trial and judgment. The judge to whom the case has been originally raffled, who shall be called the JDR Judge, shall preside over the first stage. The judge, who shall be called the trial judge, shall preside over the second stage.

At the initial stage of the pre-trial conference, the JDR judge briefs the parties and counsels of the CAM and JDR processes. Thereafter, he issues an Order of Referral of the case to CAM and directs the parties and their counsels to proceed to the PMCU bringing with them a copy of the Order of Referral. The JDR judge shall include in said Order, or in another Order, the pre-setting of the case for JDR not earlier than forty-five (45) days from the time the parties first

personally appear at the PMCU so that JDR will be conducted immediately if the parties do not settle at CAM.

All incidents or motions filed during the first stage shall be dealt with by the JDR judge. If JDR is not conducted because of the failure of the parties to appear, the JDR judge may impose the appropriate sanctions and shall continue with the proceedings of the case.

If the parties do not settle their dispute at CAM, the parties and their counsels shall appear at the preset date before the JDR judge, who will then conduct the JDR process as mediator, neutral evaluator and/or conciliator in order to actively assist and facilitate negotiations among the parties for them to settle their dispute. As mediator and conciliator, the judge facilitates the settlement discussions between the parties and tries to reconcile their differences. As a neutral evaluator, the judge assesses the relative strengths and weaknesses of each party's case and makes a non-binding and impartial evaluation of the chances of each party's success in the case. On the basis of such neutral evaluation, the judge persuades the parties to a fair and mutually acceptable settlement of their dispute.

The JDR judge shall not preside over the trial of the case<sup>15</sup> when the parties did not settle their dispute at JDR.

### **III. Courts**

**1. Multiple Sala Court** - If the case is not resolved during JDR, it shall be raffled to another branch for the pre trial proper<sup>16</sup> up to judgment.

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<sup>15</sup> Parties will be more spontaneous once they are assured that the JDR judge will not be the one to try the case. This is so because, the JDR judge may have elicited confidential information that may create bias and partiality that could affect the judgment.

<sup>16</sup> Rule 18, Section 2 paragraphs b,c,d,e,f,g,and i,

For cases with pending applications for restraining orders/preliminary injunctions, the judge to whom the case was raffled shall rule on the said applications. During the pre-trial stage, the judge refers the case to CAM, but if the parties do not settle at CAM, the case will be raffled to another branch for JDR. If the parties do not settle at JDR, the case will be returned to the branch that ruled on the applications for the pre-trial proper and up to judgment.<sup>17</sup>

**2. Single Sala Court.** – Unless otherwise agreed upon as provided below, the JDR proceedings will be conducted by the judge of the pair court, if any, otherwise, by the judge of the nearest court as determined by the concerned Executive Judge. The JDR proceedings shall be conducted at the station where the case was originally filed. The result of the JDR proceedings shall be referred to the court of origin for appropriate action, *e.g.* approval of the compromise agreement, trial, etc.

Notwithstanding the foregoing, before the commencement of the JDR proceedings, the parties may file a joint written motion requesting that the court of origin conduct the JDR proceedings and trial.

**3. Family Courts** – Unless otherwise agreed upon as provided below, the JDR proceedings in areas where only one court is designated as a family court, shall be conducted by a judge of another branch through raffle. However, if there is another family court in the same area, the family court to whom the case was originally raffled shall conduct JDR proceedings and if no settlement is reached, the other family court shall conduct the pre-trial proper and trial.

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<sup>17</sup> Includes post-judgment proceedings, *e.g.* motion for reconsideration, execution, etc.

Notwithstanding the foregoing, before commencement of the JDR proceedings, the parties may file a joint written motion requesting that the family court to which the case was originally raffled shall conduct the JDR proceedings and trial.

Despite the non-mediatable nature of the principal case, like annulment of marriage, other issues such as custody of children, support, visitation, property relations and guardianship, may be referred to CAM and JDR to limit the issues for trial.

**4. Commercial, Intellectual Property, and Environmental Courts** - Unless otherwise agreed upon as provided below, the JDR proceedings in areas where only one court is designated as commercial/intellectual property/environmental court, hereafter referred to as special court, shall be conducted by another judge through raffle and not by the judge of the special court. Where settlement is not reached, the judge of the special court shall be the trial judge. Any incident or motion filed before the pre-trial stage shall be dealt with by the special court that shall refer the case to CAM.

Notwithstanding the foregoing, before commencement of the JDR proceedings, the parties may file a joint written motion requesting that the special courts to which the case was originally raffled shall conduct the JDR proceedings and trial.

#### **IV. JDR During Trial**

Cases may be referred to JDR even during the trial stage upon written motion of one or both parties indicating willingness to discuss a possible compromise. If the motion

is granted, the trial shall be suspended<sup>18</sup> and the case referred to JDR, which shall be conducted by another judge through raffle in multiple sala courts.

If settlement is reached during JDR, the JDR court shall take appropriate action thereon, *i.e.* approval/disapproval of the compromise agreement. If settlement is not reached at JDR, the case shall be returned to the referring court for continuation of trial.

In single sala courts, the JDR shall be conducted by the nearest court (or pair court, if any) regardless of the level of the latter court. The result of the JDR proceedings shall be referred to the court of origin for appropriate action, *e.g.* approval of the compromise agreement, trial, etc.

The parties may, by joint written motion, despite confidential information that may be divulged during JDR proceedings, file a request that their case be not transferred to other courts for JDR and that they agree to have the trial judge continue the trial should the case not be settled through JDR.

## **V. Settlement Period**

Any Settlement Period declared by the Supreme Court is understood to include JDR and, therefore, half of all cases referred to mediation shall be for JDR settlement. The procedure shall be as stated in Roman Numeral IV above, except that no written motion is required from the parties for their case to be referred to JDR.

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<sup>18</sup> Paragraph 1, Article 2030 of the Civil Code.

## **VI. Party Participation**

### **1. Individual Party Litigants**

The party litigants shall personally attend all mediation conferences or through duly authorized representatives. The authority of the representatives shall be in writing and shall state that they are fully empowered to offer, negotiate, accept, decide, and enter into a compromise agreement without need of further approval by or notification to the authorizing parties.

### **2. Corporate Party Litigants**

In case of corporations, the representatives must be senior management officials with written authority from the Board of Directors to offer, negotiate, accept, decide, and enter into compromise agreement without need of further approval by or notification to the authorizing parties.

## **VII. Judgments/Decisions in JDR**

Decisions/Judgments approving the compromise agreements of the parties, through the efforts of the judge as a mediator, conciliator or neutral evaluator, shall contain a statement to the effect that the Judgments/Decisions were achieved through JDR. This is to distinguish Judgments/Decisions approving compromise agreements secured through CAM. Copies of said Judgments/Decisions shall be submitted to the Philippine Mediation Center Unit for documentation purposes.

## **VIII. Sanctions**

A party who fails to appear on the date set for JDR conference, may forthwith be imposed the appropriate sanction

as provided in Rule 18 of the Revised Rules of Court and relevant issuances of the Supreme Court including, but not limited to censure, reprimand, contempt, and requiring the absent party to reimburse the appearing party his costs, including attorney's fees for that day up to treble such costs, payable on or before the date of the re-scheduled setting. Sanctions may be imposed by the JDR judge upon motion of the appearing party or *motu proprio*.

Upon justifiable cause duly proved in the hearing of the motion to reconsider filed by the absent party, the sanctions imposed may be lifted, set aside or modified in the sound discretion of the JDR judge.

A representative who appears on behalf of an individual or corporate party without the required authorization by special power of attorney or board resolution, respectively, may similarly be imposed appropriate sanctions.

## **IX. Duration of JDR proceedings**

To complete the JDR process, judges of the First Level Courts shall have a period of not exceeding thirty (30) days, while judges of the Second Level Courts shall have a period of not exceeding sixty (60) days. A longer period, however, may be granted upon the discretion of the JDR judge if there is a high probability of settlement and upon joint written motion of the parties. Both periods shall be computed from the date when the parties first appeared for JDR proceedings as directed in the respective Orders issued by the judge. As far as practicable, JDR conferences shall be set not more than two (2) weeks apart so as to afford the parties ample time to negotiate meaningfully for settlement.

In criminal cases covered by CAM and JDR, where settlement on the civil aspect has been reached but the period of payment in accordance with the terms of settlement exceeds one (1) year, the case may be archived upon motion of the prosecution, with notice to the private complainant and approval by the judge.

## **X. Suspension of periods**

The period during which the case undergoing JDR proceedings shall be excluded from the regular and mandatory periods for trial and rendition of judgment in ordinary cases and in cases under summary proceedings.

## **XI. Settlement**

### **A. CIVIL CASES:**

If full settlement of the dispute is reached, the parties, assisted by their respective counsels, shall draft the compromise agreement which shall be submitted to the court for a judgment upon compromise, enforceable by execution.

Where full compliance with the terms of the compromise is forthwith made, the parties, instead of submitting a compromise agreement, shall submit a satisfaction of claims or a mutual withdrawal of the parties' respective claims and counterclaims. Thereafter, the court shall enter an order dismissing the case.

If partial settlement is reached, the parties shall, with the assistance of counsel, submit the terms thereof for the court's approval and rendition of a judgment upon partial compromise, which may be enforced by execution without waiting for resolution of the unsettled part.

In relation to the unsettled part of the dispute, the court shall proceed to conduct trial on the merits of the case should the parties file a joint motion for him to do so, despite confidential information that may have been divulged during the conciliation/mediation stage of the proceedings. Otherwise, the JDR Judge shall turn over the case to a new judge by re-affle in multiple sala courts or to the originating court in single sala courts, for the conduct of pre-trial proper and trial.

## **B. CRIMINAL CASES:**

If settlement is reached on the civil aspect of the criminal case, the parties, assisted by their respective counsels, shall draft the compromise agreement which shall be submitted to the court for appropriate action.

Action on the criminal aspect of the case will be determined by the Public Prosecutor, subject to the appropriate action of the court.

If settlement is not reached by the parties on the civil aspect of the criminal case, the JDR judge shall proceed to conduct the trial on the merits of the case should the parties file a joint written motion for him to do so, despite confidential information that may have been divulged during the JDR proceedings. Otherwise, the JDR Judge shall turn over the case to a new judge by re-affle in multiple sala courts or to the originating court in single sala courts, for the conduct of pre-trial proper and trial.

## **XII. Pre-trial Proper**

Where no settlement or only a partial settlement was reached, and there being no joint written motion submitted by the parties, as stated in the last preceding paragraphs, the JDR judge shall turn over the case to the trial judge, determined by re-affle in multiple sala courts or to the originating court in single sala courts, as the case may be, to conduct pre-trial proper, as mandated by Rules 18 and 118 of the Rules of Court.

## **XIII. Trial and Judgment**

The trial judge to whom the case was turned over, shall expeditiously proceed to trial, after the pre-trial and, thereafter, render judgment in accordance with the established facts, evidence, and the applicable laws.

## **PART FOUR**

### **PROVISIONS COMMON TO BOTH CAM AND JDR**

#### **I. Confidentiality**

Any and all matters discussed or communications made, including requests for mediation, and documents presented during the mediation proceedings before the Philippine Mediation Center or the JDR proceedings before the trial judge, shall be privileged and confidential, and the same shall be inadmissible as evidence for any purpose in any other proceedings. However, evidence or information that is otherwise admissible does not become inadmissible solely by reason of its use in mediation or conciliation.

Further, the JDR judge shall not pass any information obtained in the course of conciliation and early neutral evaluation to the trial judge or to any other person. This prohibition shall include all court personnel or any other person present during such proceedings. All JDR conferences shall be conducted in private.

#### **II. Role of Lawyers in mediation<sup>19</sup> and in JDR Proceedings**

Lawyers may attend mediation proceedings in the role of adviser and consultant to their clients, dropping their combative role in the adjudicative process, and giving up their dominant role in judicial trials. They must accept a less directive role in order to allow the parties more opportunities to craft their own agreement.

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<sup>19</sup> Guidelines for Parties' Counsel in Court-Annexed Mediation Cases, A.M. No. 04-3-15 SC PHILJA, 15 March 2004 .

In particular, they shall perform the following functions:

1. Help their clients comprehend the mediation process and its benefits and allow them to assume greater personal responsibility in making decisions for the success of mediation in resolving the dispute.

2. Discuss with their clients the following:

\*The substantive issues involved in the dispute.

\*Prioritization of resolution in terms of importance to client.

\*Understanding the position of the other side and the underlying fears, concerns, and needs underneath that position.

\*Need for more information or facts to be gathered or exchanged with the other side for informed decision making.

\*Possible bargaining options but stressing the need to be open-minded about other possibilities.

\*The best, worst, and most likely alternatives to a negotiated agreement.

3. Assist in preparing a compromise agreement that is not contrary to law, morals, good customs, public order, or public policy so that the same may be approved by the court, paying particular attention to issues of voluntary compliance of what have been agreed upon, or otherwise to issues of enforcement in case of breach.

4. Assist, wherever applicable, in the preparation of a manifestation of satisfaction of claims and mutual withdrawal of complaint and counterclaim as basis for the court to issue an order of dismissal.

## **PART FIVE**

### **SC-PHILJA-PMC MEDIATION TRUST FUND**

#### **I. Creation of Trust Fund**

The Mediation Fees collected and collectible, pursuant to Section 9, Rule 141, as amended, of the Rules of Court, and all income therefrom shall constitute a special fund, to be known as the SC-PHILJA-PMC Mediation Trust Fund, which shall be administered and disbursed in accordance with guidelines set by court issuances, for purposes enumerated in Section 9, Rule 141 of the Revised Rules of Court.

All revenues of the PMC Office from sources other than the mediation fees above shall form part of its Special ADR Fund (SAF), which shall be administered and disbursed by PHILJA in accordance with the existing guidelines approved by the Supreme Court.

#### **II. Collection of Mediation Fees**

##### **(Sec. 9 of Rule 141, A.M. No. 04-2-04-SC)**

##### *A. Trial Courts*

The Clerks of Court of the Regional Trial Courts and the First-Level Courts shall collect the amount of FIVE HUNDRED PESOS (P500.00) upon the filing of the following:

- (1) Complaint or an Answer with a mediatable permissive counterclaim or cross-claim, complaint-in-intervention, third-party complaint, fourth-party complaint, *etc.*, in civil cases, a Petition, an Opposition, and a Creditors' Claim in Special Proceedings;

- (2) Complaint/Information for offenses with maximum imposable penalty of *prision correccional* in its maximum period or six years imprisonment, except where the civil liability is reserved or is subject of a separate action;
- (3) Complaint/Information for estafa, theft, and libel cases, except where the civil liability is reserved or is subject of a separate action;
- (4) Complaint/Information for Quasi-Offenses under Title 14 of the Revised Penal Code;
- (5) Intellectual Property cases;
- (6) Commercial or corporate cases; and
- (7) Environmental cases

The Clerks of Court of the First Level Courts shall collect the amount of FIVE HUNDRED PESOS (P500.00) upon the filing of a Notice of Appeal with the Regional Trial Court.

The Clerks of Court of the Regional Trial Court shall collect the amount of ONE THOUSAND PESOS (P1,000.00) upon the filing of a Notice of Appeal with the Court of Appeals or the Sandiganbayan.

*B. Court of Appeals and Court of Tax Appeals*

The Clerks of Court of the Court of Appeals and Court of Tax Appeals shall collect the amount of ONE THOUSAND PESOS (P1,000.00) upon the filing of a mediatable case, petition, special civil action, a comment/answer to the petition or action, and the appellee's brief. The Clerk of Court of the

Court of Tax Appeals shall also collect the amount of ONE THOUSAND PESOS (P1,000.00) for the appeal from the decision of a CTA Division to the CTA *En Banc*.

Provided that, in all cases, a pauper litigant shall be exempt from contributing to the Mediation Fund. Despite such exemption, the court shall provide that the unpaid contribution to the Mediation Fund shall be considered a lien on any monetary award in a judgment favorable to the pauper litigant.

And, *provided further*, that an accused-appellant shall also be exempt from contributing to the Mediation Fund.

The amount collected shall be receipted and separated as part of a special fund, to be known as the “Mediation Fund”, and shall accrue to the SC-PHILJA-PMC Fund, disbursements from which are and shall be pursuant to guidelines approved by the Supreme Court.

The Fund shall be utilized for the promotion of court-annexed mediation and other relevant modes of alternative dispute resolution (ADR), training of mediators, payment of mediator’s fees, and operating expenses for technical assistance and organizations/individuals, transportation/communication expenses, photocopying, supplies and equipment, expense allowance, and miscellaneous expenses, whenever necessary, subject to auditing rules and regulations. In view thereof, the mediation fees shall not form part of the Judicial Development Fund (JDF) under P.D. No. 1949 nor of the special allowances granted to justices and judges under Republic Act No. 9227.

### **III. Utilization and Disbursement**

#### **(A.M. No. 05-3-25-SC-PHILJA dated 26 April 2005)**

##### **A. Purpose and Utilization of the Mediation Fund**

The Fund shall be used for:

- a. Establishment of PMC Units;
- b. Training seminars/workshops/internship programs for Mediators;
- c. Payment of Mediators' Fees, including the PMC Unit Staff;
- d. Payment of operating expenses;
- e. Advocacy and promotion of court-annexed mediation and other relevant modes of ADR;
- f. Such other expenses as authorized by Section 9, Rule 141 of the Rules of Court.

The Fund shall be managed by PHILJA subject to accounting and auditing rules and regulations.

##### **B. Deposit of the Mediation Fund**

The Philippine Judicial Academy (PHILJA) has already closed the SC PHILJA TRUST FUND Peso Current Account No. 3472-1001-30 as of 30 March 2009. Hence, all mediation fees collected are to be deposited solely under SC PHILJA PMC Rule 141 Peso Current Account (CA) No. 3472-1000-08.<sup>20</sup>

### **IV. Mediation Fee, Mediator's Fee and Mediation Fund, distinguished**

The mediation fee is the amount collected from the parties. The amount is added to the mediation fund from where disbursements are made for the authorized expenditures stated above. The mediation fee is not collected

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<sup>20</sup> OCA Circular No. 28-2009 dated April 13, 2009.

for mediation services rendered or to be rendered. It is intended as a contribution to promote mediation. The mediator's fee is the authorized amount paid from the mediation fund for services rendered by a mediator.

## **PART SIX**

### **THE PHILIPPINE MEDIATION CENTER OFFICE (PMCO) AND MEDIATION CENTER UNITS (A.M. NO. 33-2008, February 12, 2008)**

#### **I. Philippine Mediation Center Office and PMC Units**

The Philippine Mediation Center Office shall primarily be responsible for the expansion, development, implementation, monitoring; and sustainability of SC ADR mechanisms, namely:

- a. Court-Annexed Mediation (CAM)
- b. Appellate Court Mediation (ACM)
- c. Judicial Dispute Resolution (JDR)
- d. Mobile Court-Annexed Mediation (MCAM)
- e. Court-Annexed Arbitration (CAA) and other Alternative Dispute Resolution mechanisms

The PMCO shall likewise be primarily tasked with the organization of PMC units, as it may deem necessary, throughout the country. It shall be under the operational control of and supervision of PHILJA, in coordination with the Office of the Court Administrator, through the Executive Judges.

#### **II. Organizational Structure**

The Philippine Mediation Center Office shall be composed of:

- a) Executive Committee<sup>21</sup> - The powers and authority of the PMC Office shall be vested in and exercised by an Executive Committee composed of:

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<sup>21</sup> Court *En Banc* Resolution, dated June 3, 3008, under A.M. No. 08-2-5-SC-PHILJA.

PHILJA Chancellor – Chairperson

Four (4) regular members, namely:

1. Dean Eduardo D. De los Angeles
2. Dean Pacifico A. Agabin
3. Judge Divina Luz P. Aquino-Simbulan
4. Atty. Linda L. Malenab-Hornilla

Four (4) *Ex-officio* members, namely:

Court Administrator

Executive Secretary, PHILJA<sup>22</sup>

PHILJA Chief of Office for PMC

Chairperson, PHILJA ADR Department

b) PHILJA Chief of Office for PMC- Chief of Office of the Philippine Mediation Center Office

c) PHILJA Assistant Chief of Office for PMC

d) CENTRAL OFFICE

a. Mediation Planning and Research Division

b. Mediation Resource Management Division

c. Mediation Education, Training and Monitoring Division

e) Mediation Center Units, composition

a. Court-Annexed Mediation (CAM)

\*Mediation Staff Officer V

\*Mediation Staff Assistant II

\*Mediation Aide

\*Accredited Mediators

b. Appellate Court Mediation (ACM)

\*Mediation Staff Officer VI

\*Mediation Staff Officer IV

\*Mediation Staff Assistant II

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<sup>22</sup> Justice Justo P. Torres, Jr., PHILJA Chancellor, changed to Justice Marina L. Buzon, Executive Secretary, per Board Resolution No. 08-18, dated May 15, 2008 of the PHILJA Board of Trustees.

- \*Mediation Aide
- \*Accredited Mediation
- c. Judicial Dispute Resolution (JDR)
  - \*Mediation Staff Officer V
  - \*Mediation Staff Assistant II
  - \*Mediation Aide
- d. Mobile Court Annexed-Mediation (MCAM)
  - Every bus of the Justice on Wheels (JOW) deployed for mediation in selected areas is considered as a PMC Unit, thus, it is entitled to the following:
  - \*Mediation Staff Officer V
  - \*Mediation Staff Assistant II
  - \*Mediation Aide
  - \*accredited Mediators

### **III. Powers and Functions of the PMCO**

The PMC Office shall exercise the following powers and functions in order to accomplish its mandate under A.M. 01-10-5-SC-PHILJA:

- a. Develop and promulgate rules and regulations that it may deem necessary, subject to the approval of the Supreme Court, upon recommendation of the Executive Committee and the PHILJA Board of Trustees;
- b. Implement, in coordination with the Office of the Court Administrator, rules and policies of the Supreme Court on ADR mechanisms, namely, Court-Annexed Mediation (CAM), Appellate Court Mediation (ACM), Judicial Dispute Resolution (JDR), Mobile Court-Annexed Mediation (MCAM), and eventually Court-Annexed Arbitration (CAA) and other Alternative Dispute Resolution mechanisms;
- c. Establish such PMC Units as may be necessary;
- d. Provide a system for the recruitment, screening, training, and accreditation of Mediators;

- e. Monitor and evaluate the performance of Mediators, such as in settling disputes and in observing the Code of Ethical Standards for Mediators, upgrade their mediation skills, and oversee their further development. Such evaluation shall be the basis for the renewal of their accreditation as Mediators;
- f. Provide a grievance mechanism and procedure for addressing complaints against Mediators and PMC Unit Staff;
- g. Promote and sustain the programs and activities of Court-annexed Mediation (CAM), Appellate Court Mediation (ACM), Judicial Dispute Resolution (JDR), Mobile Court-Annexed Mediation (MCAM), and eventually Court-Annexed Arbitration (CAA) and other Alternative Dispute Resolution mechanisms;
- h. Call on any government agency, office, instrumentality, commission or council to render such assistance as may be necessary for the efficient performance of its functions; and
- i. Exercise such other functions necessary in furtherance of its mandate.

Approved this 15<sup>th</sup> day of November 2010, Manila, Philippines.

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ALFREDO F. TADIAR  
*Member*

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EDUARDO D. DE LOS ANGELES  
*Member*

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RAUL B. VILLANUEVA  
*Member*

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PACIFICO A. AGABIN  
*Member*

\_\_\_\_\_  
LINDA L. MALENAB-HORNILLA  
*Member*

\_\_\_\_\_  
MARINA L. BUZON  
*Member*

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ADOLFO S. AZCUNA  
*Chairperson*