



PHILJA Bulletin



January to March 2006

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From the Chancellor's Desk *Ben*

PHILJA hit the ground running on the first month of 2006 with a pace that did not slacken until the productive period ended.

Figuring prominently among this period's most significant events is the Php300M Japan Grant for the construction and equipping of the PHILJA Development Center in Tagaytay City. Soon after the Presentation and Appreciation ceremony was held, the Implementation Committee was formed and the Orientation-Workshop laying down plans and prescribing time lines was conducted.

Just as significant were the 39th Orientation Seminar-Workshop for newly appointed judges and the Regional Career Enhancement Program for the 8th Judicial Region in Tacloban City wherein a revised curriculum integrating skills-based methodologies and social context/social justice and gender issues was implemented. The same interactive approach was utilized in the 5th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice wherein the use of Family Court Mediation with focus on the issue of diversion for children in conflict with the law was also introduced.

We consider very significant the conduct of a series of seminars on Computer Skills Training for Sandiganbayan employees in preparation for the roll-out of their Case Management and Information System (CMIS). Very soon, with the support of ABA-Asia and USAID Rule of Law Effectiveness (ROLE), the Sandiganbayan will become the first fully computerized court.

As important was the launching and demonstration of the Video Training Modules on "Improving Judicial Proceedings Involving Child Sexual Abuse Exploitation Cases," made possible with funding from the UK and in cooperation with CPU-Net. These materials were subsequently utilized in two (2) training and capacity enhancement workshops for Family Court Judges and court personnel to increase and demonstrate awareness and sensitivity in handling child abuse cases.

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PHILJA ACADEMIC PROGRAMS

39TH ORIENTATION SEMINAR-WORKSHOP FOR NEWLY-APPOINTED JUDGES

The 39th Orientation Seminar-Workshop for Newly Appointed Judges was held on February 13 to 24, 2006, at the PHILJA Development Center, Tagaytay City. In attendance were forty-seven (47) judges, comprising twenty-eight (28) newly appointed judges and nineteen (19) promoted judges.

A. New Appointments

REGIONAL TRIAL COURTS

NATIONAL CAPITAL JUDICIAL REGION

Hon. Salvador T. Timbang, Jr.

RTC Br. 253, Las Piñas City

Hon. Felix P. Reyes

RTC Br. 272, Marikina City

REGION III

Hon. Esperanza P. Rozario

RTC Br. 44, San Fernando, Pampanga

Hon. Virgilio G. Caballero

RTC Br. 30, Cabanatuan, Nueva Ecija

REGION IV

Hon. Edgar D. Santos

RTC Br. 78, Morong, Rizal

REGION VI

Hon. Franklin J. Demonteverde

RTC Br. 55, Himamaylan, Negros Occidental

REGION IX

Hon. Yolinda C. Bautista

RTC Br. 9, Dipolog City, Zamboanga del Norte

Hon. Chandler O. Ruiz

RTC Br. 10, Dipolog City, Zamboanga del Norte

REGION XII

Hon. George C. Jabido

RTC Br. 18, Midsayap, North Cotabato

MUNICIPAL TRIAL COURTS IN CITIES

REGION II

Hon. Mary Jane S. Soriano

MTCC Cauayan City, Isabela

REGION III

Hon. Katrina Nora Buan Factora

MTCC Br. 2, Angeles City, Pampanga

Hon. Jacinto C. Gonzales

MTCC Br. 2, Olongapo City, Zambales

Hon. Irineo P. Pangilinan, Jr.

MTCC Br. 1, Angeles City, Pampanga

REGION IX

Hon. Alexander M. Betoya

MTCC Br. 1, Pagadian City, Zamboanga del Sur

REGION X

Hon. Cesar A. Merlas

MTCC Br. 1, Cagayan de Oro City

REGION XII

Hon. Alejandro Ramon C. Alano

MTCC Br. 3, General Santos City, South Cotabato

MUNICIPAL TRIAL COURTS

REGION III

Hon. Ana Marie Joson-Viterbo

MTC Zaragoza, Nueva Ecija

REGION IV

Hon. Michael M. Amdengan

MTC Angono, Rizal

Hon. Lourdes M. Casco

MTC Tayabas, Quezon

Hon. Jose Lorenzo R. dela Rosa

MTC Victoria, Laguna

Hon. Vicente B. Montes

MTC Calaca, Batangas

REGION V

Hon. Victoria Dino Reyes

MTC Basud, Camarines Norte

REGION VIII

Hon. Maria Cielo S. Velasquez-Martinez

MTC Jaro, Leyte

REGION IX

Hon. Veronica C. de Guzman-Laput

MTC Manukan, Zamboanga del Norte

Hon. Deborah G. Nazario

MTC Polanco, Zamboanga del Norte

Hon. Vicente B. Tecson

MTC Aurora, Zamboanga del Sur

MUNICIPAL CIRCUIT TRIAL COURTS

REGION II

Hon. Fe Viray Alvaro

10th MCTC Roxas-Quirino, Isabela

REGION V

Hon. Carlos L. Bona

MCTC Sto. Domingo-Manito, Albay

B. Promotions**REGIONAL TRIAL COURTS****NATIONAL CAPITAL JUDICIAL REGION**

Hon. Carolina R. Colasito

RTC Br. 23, Manila

Hon. Roy G. Gironella

RTC Br. 43, Manila

Hon. Aida E. Layug

RTC Br. 46, Manila

Hon. Jose A. Mendoza

RTC Br. 55, Manila

Hon. Jose P. Morillos

RTC Br. 44, Manila

Hon. Ruben Reynaldo G. Roxas

RTC Br. 12, Manila

Hon. Ma. Victoria A. Estoesta

RTC Br. 99, Quezon City

Hon. Elvira de Castro Panganiban

RTC Br. 227, Quezon City

Hon. Maria Rosario B. Ragasa

RTC Br. 108, Pasay City

Hon. Wilhelmina Jorge-Wagan

RTC Br. 111, Pasay City

Hon. Gloria Butay Aglugub

RTC Br. 254, Las Piñas City

REGION I

Hon. Genoveva Conching Maramba

RTC Br. 44, Dagupan City, Pangasinan

Hon. Mona Lisa V. Tiongson-Tabora

RTC Br. 26, San Fernando, La Union

REGION III

Hon. Joselito S. Salvador

RTC Br. 46, San Fernando, Pampanga

REGION VIII

Hon. Celso L. Mantua

RTC Br. 17, Palompon, Leyte

REGION IX

Hon. Aniceto B. Galon

RTC Br. 20, Pagadian City, Zamboanga del Sur

REGION X

Hon. Jose C. Yamut, Sr.

RTC Br. 11, Manolo Fortich, Bukidnon

REGION XI

Hon. Romeo C. Albarracin

RTC Br. 9, Davao City

REGION XII

Hon. Macaundas M. Hadjirasul

RTC Br. 10, Marawi City, Lanao del Sur

RJCEPs (LEVEL 4)

This quarter, PHILJA conducted two (2) *Regional Judicial Career Enhancement Programs (RJCEPs, Level 4)* for Judges, Clerks of Court and Branch Clerks of Court of the Regional Trial Courts and First Level Trial Courts.

The RJCEP for the 8th Judicial Region was held on February 15 to 17, 2006, at the Leyte Park Hotel, Tacloban City. A total of two hundred nineteen (219) participants attended the program, comprising thirty-two (32) Regional Trial Court judges, fifty-one (51) First Level Trial Court judges, thirty (30) clerks of court and branch clerks of court who are lawyers, and one hundred six (106) clerks of court and branch clerks of court who are non-lawyers.

On the other hand, the RJCEP for the 11th Judicial Region was conducted on March 15 to 17, 2006, at the Grand Regal Hotel, Davao City. One hundred sixty-eight (168) attended the program, comprising thirty-two (32) Regional Trial Court judges, thirty-one (31) First Level Trial Court judges, thirty-six (36) clerks of court and branch clerks of court who are lawyers, and sixty-nine (69) clerks of court and branch clerks of court who are non-lawyers.

**SEMINAR AND ANNUAL MEETING OF THE PHILIPPINE WOMEN JUDGES ASSOCIATION**

The *Seminar and Annual Meeting of the Philippine and Women Judges Association (PWJA)* was held on March 15 to 16, 2006, at the Manila Hotel, Roxas Blvd., Manila and attended by three hundred ten (310) participants comprising Justices of the Supreme Court, Court of Appeals and Sandiganbayan, and judges of the First Level and Second Level Courts nationwide.

The first day of the said event was devoted to activities of the PWJA, included therein were speeches delivered by Judge Jiin-Fang Lin of Taiwan Taipch District Court, Ms. Joan Winship of International Association of Women Judges (IAWJ) and Atty. Teresa Lynn Cannady of ABA-ASIA. The second day was allotted to the educational component. Highlighted lectures were *Forensic Evidence in Child Abuse Cases* and *The Grant of Notarial Commissions under the New Rules*.



SPECIAL FOCUS PROGRAMS

5TH REGIONAL MULTI-SECTORAL SEMINAR- WORKSHOP ON JUVENILE AND DOMESTIC RELATIONS JUSTICE (ADVANCED LEVEL)

PHILJA, in partnership with the United Nations Children's Fund (UNICEF), *Adhikain Para Sa Karapatang Pambata* – Ateneo Human Rights Center (AKAP-AHRC), United States Agency for International Development (USAID), and The Asia Foundation (TAF) conducted the 5th Regional Multi-Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level) on January 25 to 27, 2006, at the CSB Hotel, Malate, Manila. Sixty-four (64) participants attended the seminar composed of judges, branch clerks of court, court social workers, prosecutors, lawyers from the Public Attorney's Office (PAO), and officers of the Philippine National Police (PNP) and Bureau of Jail Management and Penology (BJMP) handling women and children cases. This cluster of participants came from the National Capital Judicial Region and Region IV, particularly in the designated Family Courts in Quezon City, Malabon, Marikina City, Batangas City, Cavite City, Sta. Cruz in Laguna, Lucena City, and Antipolo City in Rizal.

The lectures highlighted updates on new laws on family, women, and children. The workshops were on case studies, dispute resolution skills; and drafting and validation of rules and guidelines for family courts, specifically on adoption, diversion, and mediation on family law cases.

RTD ON R.A. 9208 AND R.A. 9262

The Roundtable Discussion on Republic Act No. 9208 (*Anti-Trafficking in Person*) and Republic Act No. 9262 (*Violence Against Women and their Children*) for National Capital Judicial Region (NCJR) Family Court Judges was conducted by the Academy on February 7, 2006, at the Justices' Lounge, Centennial Building, Court of Appeals. Thirteen (13) NCJR Family Court judges attended the half-day session.

The RTD aimed at enabling Family Court judges to distinguish between cases of trafficking from non-trafficking by being familiar with the elements of trafficking, recognizing women and child-abuse

cases; and determining the appropriateness of issuing Protection Orders.

Another RTD, entitled *Roundtable Discussion on R.A. 9208 and R.A. 9262 for the Associate Justices of the Court of Appeals-Manila* was conducted by the Academy last March 21, 2006, at the Justices Lounge, Centennial Building, Court of Appeals. The discussion focused on the salient features of R.A. No. 9208 and R.A. No. 9262. The event was attended by fifteen (15) Court of Appeals justices.

SEMINAR ON THE RULE OF PROCEDURE IN CASES OF CIVIL FORFEITURE, ETC.

The *Seminar on the Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation and Freezing of Monetary Instrument, Property or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under R.A. No. 9160 as Amended*, was conducted on February 8, 2006, by PHILJA, in collaboration with the Rule of Law Effectiveness (ROLE) and the American Bar Association – Asia Law Initiative (ABA-Asia), under the supervision of Dean Cesar L. Villanueva, Chair of the PHILJA Commercial Law Department. The seminar was conducted simultaneously *via* webcasting in three (3) remote sites, particularly, at the Discover Suites, Ortigas Avenue, Pasig City; at the Cebu Grand Hotel, Cebu City; and at the Dynasty Court Hotel, Cagayan de Oro City.

Participants of the seminar were justices of the first three Divisions of the Court of Appeals in Cebu and Cagayan de Oro; justices of the Sandiganbayan; and the executive judges, vice-executive judges and Commercial Court judges of the National Capital Judicial Region (NCJR), Cebu, and Misamis Oriental and Occidental.

Topics discussed were the *Basic Principles of Civil Forfeiture and the Philippine and Foreign Experience on the Subject* and the *New Rule of Civil Forfeiture, Applicable Jurisprudence and Related Laws*. The first topic aimed at stimulating the interest of the participants on the new Rule by giving them a clear idea of what Civil Forfeiture is, how it differs from criminal forfeiture, and how it is applied in other jurisdiction. The second topic, on the other hand, featured the provisions of the Rule particularly on Applicability, Party, Jurisdiction, Procedure in the Regional Trial Court, Trial Judgment and Review, Claims against Forfeited Assets and Appeal.

ENVIRONMENTAL LAW SEMINAR-WORKSHOP FOR SELECTED JUDGES OF PANAY AND NEGROS ORIENTAL

The *Environmental Law Seminar-Workshop for Selected Judges of Panay and Negros Oriental* was conducted by the Academy, in cooperation with the United Nations Development Programme – Global Environment Facility – Small Grants Programme (UNDP-GEF-SGP) International Visitor Program – Philippine Alumni Foundation, Inc., and the Haribon Foundation through the ANEST for Biodiversity Conservation in the Philippines Project (PN-11780) and the Threatened Species Program on February 15 to 17, 2006, at the Iloilo Business Hotel, Iloilo City. A total of forty (40) participants attended the seminar-workshop composed of judges and representatives from the Haribon Foundation, local government unit, Negros Forest and Ecological Foundation, Inc., the Antique Outdoors, PAMANAKASA Pilipinas, Biocon, LIPASECU, and the Department of Environment and Natural Resources (DENR).

Topics discussed were the *State of the Philippine Environment, People Mining Act of 1995 (R.A. No. 7942); People's Small-Scale Mining Act of 1991 (R.A. No. 7076); Wildlife Resources Conservation and Protection Act (R.A. No. 9147); National Caves and Cave Resource Management and Protection Act (R.A. No. 9072); National Integrated Protected Areas System Act of 1992 (R.A. No. 7586); Revised Forestry Code of the Philippines (P.D. No. 705); The Chainsaw Act (R.A. No. 9175); The Philippine Fisheries Code (R.A. No. 8550); and the Indigenous People's Rights Act of 1997 (IPRA).*

PANEL DISCUSSION ON GRAVE ABUSE OF DISCRETION IN THE CONTEXT OF SEPARATION OF POWERS

The *Panel Discussion on Grave Abuse of Discretion in the Context of Separation of Powers* was conducted by the Academy on February 23, 2006, at the Hyatt Hotel, Manila. Thirty-four (34) participants from the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals and Regional Trial Courts, attended the activity.

Dr. Sheehan Baker, the main discussant of the activity, was a Fulbright lecturer and a professor of Constitutional Law at Louisiana State University's Paul Herbert Law Center. He discussed the concept of separation of powers and judicial review from the point of view of the United States of America. A notable remark he made during the discussion was "*as long as the judiciary protects the people from the political by sticking to the legal, then it would be held in high esteem.*"



Participants of the Environmental Law Seminar-Workshop for Selected Judges of Panay and Negros Oriental, with Court of Appeals Justice Portia A. Hormachuelos and PHILJA's Professor Sedfrey M. Candelaria.





SPECIAL FOCUS PROGRAMS

IMPROVING JUDICIAL PROCEEDINGS INVOLVING CHILD SEXUAL ABUSE/ EXPLOITATION CASES

The Philippine Judicial Academy and the Child Protection Unit Network (CPU-Net), a society of Child Protection Specialist and Child Protection Units of the Philippines, in cooperation with the British Embassy, have embarked on a pioneering project, *Improving Judicial Proceedings Involving Child Sexual Abuse / Exploitation Cases*, that aims to enhance the competence of judges in dealing with cases of children in court. The project, conceptualized through the Research Group of the Academy, started off with the production of six (6) trigger videos on actual court cases. The video modules were skills-based and tailored to adult learning styles. They were entitled *Child and Gender-insensitive Court Atmosphere; Language of a Child; Badgering of a Child Witness; Use of Guardian Ad Litem (GAL), Use of Testimonial Aids; and Unavailable Child*. Said video modules were to be used for workshops and small group discussions aimed to draw solutions to common problems faced by the child as he/she undergoes the judicial process.

Part of the project was the conduct of the *Training of Trainers on the Capacity Enhancement Training for Family Court Judges and Personnel in Handling Child Abuse Cases* on March 13, 2006, at the Traders Hotel, Manila. Participants to the training were the trainers/resource persons of the video modules. The activity's objective was to train a pool of resource

persons to be trainers on the video modules. The pool of trainers would spherehead the series of trainings on the video modules to be conducted by PHILJA .

Following this, was the *Launching and Demonstration of the Video Training Modules on "Improving Judicial Proceedings Involving Child Sexual Abuse/Exploitation Cases"* held on March 16, 2006, at the Justices' Lounge, 7th Floor, Supreme Court, Manila. Chief Justice Artemio V. Panganiban, Her Majesty's Ambassador, His Excellency Mr. Peter Beckingham from the British Embassy, Associate Justice Romeo J. Callejo, Sr., the pool of trainers and other special guests, graced the affair.

On March 21 to 23, 2006, the *Capacity Enhancement Training for Family Court Judges and Personnel in Handling Child Abuse Cases*, was conducted by the Academy at Hotel Dominique, Tagaytay City. A total of twenty-nine (29) participants attended the training. The goal of the training was, that by the end of the sessions, the participants would be able to demonstrate awareness and sensitivity in handling child abuse cases; communicate effectively and sensitively in handling child abuse cases; maintain proper decorum inside the family courts as reflected in their prevention of oppressive behavior, badgering and insensitive questions from any person during the court proceedings; appoint, as appropriate, a guardian *ad litem* (GAL) for the child; and competently identify various forms of evidence of child abuse that are admissible and have probative value during judicial proceedings. To achieve the above-mentioned objectives, lectures, panel discussions and workshops on the video modules, were enforced as learning strategies.

Participants of the Capacity Enhancement Training for Family Court Judges and Personnel in Handling Child Abuse Cases.





SPECIAL FOCUS PROGRAMS

CONFERENCE ON ARBITRATION FOR THE JUDICIARY

Republic Act No. 9285, the Alternative Dispute Resolution Act of 2004, mandates to promote modes of alternative dispute resolution, particularly, mediation and arbitration in the country. To this end, a *Conference on Arbitration for the Judiciary* was conducted by the Academy, in partnership with Kuala Lumpur Regional Centre for Arbitration (KLRCA), Chartered Institute of Arbitrators (CIArb), Philippine Dispute Resolution Center, Inc. (PDRCI), United States Agency for International Development (USAID), and The Asia Foundation (TAF) on March 23 to 24, 2006 at the Bahia Room, Intercontinental Manila, Makati City, Philippines. The said conference aimed to familiarize judges with some aspects of both domestic and international arbitration, with emphasis on how domestic courts can assist arbitral tribunals, and how they can enforce or vacate arbitral awards.

The two-day conference was attended by thirty (30) participants with eleven (11) lecturers and reactors. On the first day of the conference, topics dealt with were *The Fundamental Concept of Arbitration; Party Autonomy and Arbitration; The UNCITRAL Model law: An International Standard; Interaction between the Court and Arbitral Tribunals: The Supervisory and Supportive Roles of Domestic Courts; and Recourse Against and Enforcement of Awards: The Hong Kong Experience*. On the second day, topics discussed were *A Panacea for Dispute Resolution; Court Annexed Arbitration; Arbitrability: Changing Limitation; Recourse and the Enforcement of an Arbitral Award: The Malaysian Experience; Public Policy as Ground to Vacate Arbitral Award; and Chronicle of Current Issues Affecting International Commercial Arbitration in Asia*.



DEVELOPMENT PROGRAM FOR JUDICIAL PERSONNEL

SANDIGANBAYAN EMPLOYEES' COMPUTER SKILLS TRAINING

The Academy, in coordination with the United States Agency for International Development (USAID), The Asia Foundation (TAF), the Rule of Law Effectiveness (ROLE), and the American Bar Association – Asia Law Initiative (ABA-Asia) conducted a series of *Sandiganbayan Employees' Computer Skills Training* covering three (3) modules, as follows: *Computer Fundamentals, Personal Productivity Tools, and Case Management Information System (CMIS)*. The trainings were all held at the Sandiganbayan Library, Sandiganbayan Centennial Bldg., Commonwealth, Quezon City.

The *Module on Computer Fundamentals* was held on February 20 to 21, 2006 with seventeen (17) participants. Three (3) batches of the *Module on Personal Productivity Tools* were conducted on the following dates: February 23 to 24, 2006 with eighteen (18) participants; February 27 to 28, 2006 with seventeen (17) participants; and March 2 to 3, 2006 with nineteen (19) participants. The *Module on Case Management Information Systems (CMIS)* were also conducted in three (3) batches on March 20 to 21, 2006 with eighteen (18) participants; on March 23 to 24, 2006 with eighteen (18) participants; and on March 27 to 28, 2006 with sixteen (16) participants.

Participants of the Conference on Arbitration for the Judiciary with Chief Justice Artemio V. Panganiban, PHILJA Chancellor Ameurfina A. Melencio Herrera, and lecturers from KLRCA, namely, Dato' Kevin Woo and Mr. Chong Thaw Sing.





DEVELOPMENT PROGRAM FOR JUDICIAL PERSONNEL

ORIENTATION-WORKSHOP ON THE CODE OF CONDUCT FOR COURT OF APPEALS PERSONNEL

The Academy, in collaboration with the Supreme Court's Program Management Office (SC-PMO), and the American Bar Association – Asia Law Initiative (ABA-Asia) conducted six (6) batches of *Judicial Reform Advocacy: Orientation-Workshop on the Code of Conduct for Court Personnel of the Court of Appeals-Manila*. The first two (2) batches were conducted on February 23 and 24, 2006, at the Pan Pacific Hotel, Manila and the next four (4) batches were conducted on March 2, 3, 8, and 9, 2006, at the Manila Pavilion Hotel. A total of eight hundred fifty-two (852) Court of Appeals employees attended the orientation-workshop.

SYMPOSIUM AND WORKSHOP ON GENDER SENSITIVITY FOR SUPREME COURT LAWYERS

In celebration of the Women's Month, PHILJA, in cooperation with the Committee on Gender Responsiveness in the Judiciary (CGRJ) and Sub-Committee on Training and Capacity Building, conducted the *Symposium and Workshop on Gender Sensitivity for Supreme Court Lawyers* on March 28, 2006 held at the Old Session Hall, Old Building, Supreme Court of the Philippines. The objective of the said event was to build awareness among Supreme Court lawyers about the current issues on women and children.

The symposium, attended by thirty-five (35) participants, discussed *Leveling of Expectations; Gender Issues encountered by the Supreme Court Lawyers; Gender and Human Rights; and Gender Sensitivity in Court: Protecting the Vulnerable*. PHILJA Chancellor Justice Ameurfina A. Melencio-Herrera, in her Closing Remarks, said that the objectives of *Kamalayan, Katarungan, and Kababaihan* (KKK) were met at the Symposium. Moreover, she inspired the Supreme Court Lawyers to strive for credibility, integrity and probity in the discharge of their duties.

From the Chancellor's Desk (Continued from page 1)

To cap the celebration of Women's Month in March, PHILJA held a symposium and workshop on Gender Sensitivity for Supreme Court lawyers. This symposium met the objectives of the theme *Kamalayan, Katarungan and Kababaihan* of the Supreme Court's Committee on Gender and Sensitivity co-chaired by Justices Adolfo S. Azcuna and Alicia Austria-Martinez. The latter discussed SALIN (Sensitivity, Awareness, Language and Information) as important points for greater awareness and understanding of issues relating to gender.

The construction and inauguration of the PMC Tacloban unit, and the establishment of the Talisay, Bogo, Argao and Toledo PMCs were affirmations of support for Mediation as a tool for the decongestion of court dockets. Re-Orientation Seminars for Court-Annexed Mediators were conducted and a workshop was held to review both the Orientation Program for Judges and the Training Program in Judicial Dispute Resolution.

Amid all these, PHILJA managed to conduct separate roundtable discussions on R.A. 9208 and R.A. 9262 for NCJR Family Court Judges and the Associate Justices of the Court of Appeals; and an outstanding Panel Discussion on Grave Abuse of Discretion in the Context of Separation of Powers, with eminent panelists Senior Associate Justice Reynato S. Puno, Justice Adolfo S. Azcuna and Fulbright Fellow Dr. John S. Baker of the Louisiana State University, also as Resource Speaker.

Surely, we have reason to be thankful for the opportunity to achieve milestones that bring us closer to our target, a judiciary that we can all be proud of.



ON MEDIATION

RE-ORIENTATION SEMINAR FOR COURT-ANNEXED MEDIATORS AND OATH TAKING CEREMONY OF NEWLY-ACCREDITED MEDIATORS

The Academy's Philippine Mediation Center (PMC) conducted three (3) re-orientation seminars for Court-Annexed Mediators and two (2) oath taking ceremonies for the first quarter of 2006.

The *Re-Orientation Seminar for Court-Annexed Mediators and Oath Taking Ceremony for Newly-Accredited Cebu Mediators* was conducted on February 6 to 7, 2006, at the Cebu Grand Hotel, Cebu City, wherein forty-five (45) accredited mediators attended. Moreover, the PHILJA Mediation Team with the PMC Assistant Coordinator traveled to Cities of Toledo, Talisay and Argao and gave separate Orientation Meetings with executive judges, clerks of court and accredited court-annexed mediators in the respective areas. The Team Leader had agreed with the executive judges for the opening of PMC Units wherein mediators may start accepting cases at these new PMC Units effective February 13, 2006.

Under the Davao Mediation Program, the *Re-orientation Seminar for Court-Annexed Mediators* was conducted on February 20 to 21, 2006, at the Royal Mandaya Hotel, Davao City. This seminar was attended by sixty-two (62) mediators.

On the other hand, another *Re-Orientation Seminar for Court-Annexed Mediators and Oath Taking Ceremony for Newly-Accredited Metro Manila Mediators* was held on March 2 to 3, 2006, at the Manila Pavilion Hotel, Manila, wherein fifty-seven (57) mediators were awarded accreditation.

Moreover, the *Workshop to Review the Orientation Program for Judges on Court-Annexed Mediation and the Training Program in Judicial Dispute Resolution* was conducted on March 21 to 22, 2006, at the Pearl Manila Hotel, Manila, with a total of twenty-two (22) attendees. The workshop aimed at refining the curriculum design of two (2) existing training programs, namely, 1) the Court-Annexed Mediation (CAM) orientation of judges and 2) the JURIS Judicial Dispute Resolution (JDR) training for judges. The outputs of the workshop was incorporated in the curriculum to be prepared by

the Institute for Social Studies and Action (ISSA) team.

The Academy and the Philippine Mediation Center, in cooperation with the United States Agency for International Development (USAID) and The Asia Foundation (TAF) conducted a *Re-orientation Seminar for Court-Annexed Mediators; Inauguration of PMC Tacloban Unit; and Oath-Taking Ceremony of Mediators* on March 30 to 31, 2006, at the Ritz Tower De Leyte and Hotel Alejandro, Tacloban City. The re-orientation seminar was attended by thirty (30) accredited mediators, while ninety (90) participants including judges, local officials, mediators and other stakeholders attended the Inauguration and Oath-Taking Ceremony.

FACULTY DEVELOPMENT WORKSHOP FOR JUDGES' TRAINING AND COURSE ON COURT-ANNEXED MEDIATION AND JUDICIAL SETTLEMENT FOR JUDGES ON JDR FOR BENGUET, LA UNION, AND CAGAYAN DE ORO JUDGES

The Academy's Philippine Mediation Center (PMC), the Justice Reform Initiatives Support (JURIS) Project, and the National Judicial Institute (NJI) of Canada conducted the *Faculty Development Workshop Judges' Training* on February 16 to 18, 2006, at the Ridgewood Residence, Baguio City. This was followed by the *Course on Court-Annexed Mediation and Judicial Settlement Conference for Judges on Judicial Dispute Resolution (JDR)* for Benguet and La Union Judges on February 21 to 23, 2006, at the Baguio Country Club, South Drive, Baguio City. A total of twenty-four (24) participants attended the workshop. Objectives of these two (2) events were to teach judges in the new model court sites the skills of JDR in order for them to conduct JDR in their respective courts; to train judges in the existing model court sites to become trainers, coaches and facilitators in a JDR training; and to pilot test peer-to-peer training where judges will train and coach fellow judges.

In Cagayan de Oro City, a *Course on Court-Annexed Mediation and Judicial Settlement Conference for Judges on Judicial Dispute Resolution (JDR)* was also conducted on March 8 to 10, 2006, at the Pryce Plaza attended by a total of fifty-eight (58) participants.

CIVIL LAW

The requirement provided in the Molina case for the Solicitor General to issue a certification stating his reasons for his agreement or opposition to the petition for annulment of marriage has been dispensed with following the implementation of A.M. No. 02-11-10-SC, or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

Molina had provided for an additional requirement that the Solicitor General issue a certification stating his reasons for his agreement or opposition to the petition. This requirement however was dispensed with following the implementation of A.M. No. 02-11-10-SC, or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages. Still, Article 48 of the Family Code mandates that the appearance of the prosecuting attorney or fiscal assigned be on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed. Obviously, collusion is not an issue in this case, considering the consistent vigorous opposition of respondent to the petition for declaration of nullity. In any event, the fiscal's participation in the hearings before the trial court is extant from the records of this case.

(Tinga, J., *Leonilo Antonio v. Marie Ivonne F. Reyes*, G.R. No. 155800, March 10, 2006)



REMEDIAL LAW

Foreign Judgment may be barred from recognition if it runs counter to public policy.

While the Government refers to a judgment rendered by a London court in favor of Takenaka and Asahikosan against PIATCO in the amount of US\$82 Million, it should be noted that this foreign judgment is not yet binding on Philippine courts. It is entrenched in Section 48, Rule 39 of the Rules of Civil Procedure that a foreign judgment on the mere strength of its

promulgation is not yet conclusive, as it can be annulled on the grounds of want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact. It is likewise recognized in Philippine jurisprudence and international law that a foreign judgment may be barred from recognition if it runs counter to public policy.

(Tinga, J., *Republic of the Philippines, et al. v. Hon. Henrick F. Gingoyon, et al.*, G.R. No. 166429, February 1, 2006)

Non-appearance of the parties before the notary public who notarized the document does not necessarily render the parties' transaction void ab initio.

Notarization converts a private document into a public document. However, the non-appearance of the parties before the notary public who notarized the document does not necessarily nullify nor render the parties' transaction void ab initio. Thus:

x x x Article 1358 of the New Civil Code on the necessity of a public document is only for convenience, not for validity or enforceability. Failure to follow the proper form does not invalidate a contract. Where a contract is not in the form prescribed by law, the parties can merely compel each other to observe that form, once the contract has been perfected. This is consistent with the basic principle that contracts are obligatory in whatever form they may have been entered into, provided all essential requisites are present.

Hence, the Lease Contract is valid despite Mayor Perez's failure to appear before the notary public.

(Carpio, J., *Manuel Mallari and Millie Mallari v. Rebecca Alsol*, G.R. No. 150866, March 6, 2006)



POLITICAL LAW

State's Immunity from suit.

In fact, by entering into a Compromise Agreement with private respondent Benedicto, petitioner Republic thereby stripped itself of its immunity from suit and placed itself in the same level of its adversary. When the State enters into contract, through its officers or agents, in furtherance of a legitimate aim and purpose and pursuant to constitutional legislative authority, whereby mutual or reciprocal benefits accrue and rights and obligations arise therefrom, the State may be sued even without its express consent, precisely because by entering into a contract the sovereign descends to the level of the citizen. Its consent to be sued is implied from the very act of entering into such contract, breach of which on its part gives the corresponding right to the other party to the agreement.

(Garcia, J., Republic of the Philippines v. Sandiganbayan and Roberto S. Benedicto, G.R. No. 129406, March 6, 2006)

LABOR LAW

Employer's power to dismiss an employee is still subject to reasonable regulation by the state.

The power to dismiss an employee is a recognized prerogative that is inherent in the employer's right to freely manage and regulate his business. An employer cannot be expected to retain an employee whose lack of morals, respect and loyalty to his employer or regard for his employer's rules and appreciation of the dignity and responsibility of his office has so plainly and completely been bared. An employer may not be compelled to continue to employ a person whose continuance in service will patently be inimical to his interest. The dismissal of an employee, in a way, is a measure of self-protection. Nevertheless, whatever acknowledged right the employer has to discipline his employee, it is still subject to reasonable regulation by the State in the exercise of its police power. Thus, it is within the power of this Court not only to scrutinize the basis for dismissal but also to determine if the penalty is commensurate to the offense, notwithstanding the company rules.

(Azcuna, J., Dominador Perez v. The Medical City General Hospital, G.R. No. 150198, March 6, 2006)

CIVIL LAW

Novation, defined.

Novation is defined as the extinguishment of an obligation by the substitution or change of the obligation by a subsequent one which terminates the first, either by changing the object or principal conditions; substituting the person of the debtor; or subrogating a third person in the rights of a creditor. In order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other.

Novation cannot be presumed. The *animus novandi*, whether partial or total, must appear by the express agreement of the parties, or by their acts that are too clear and unequivocal to be mistaken. Further, novation may either be extinctive or modificatory. It is extinctive when an old obligation is terminated by the creation of a new one that takes the place of the former. It is merely modificatory when the old obligation subsists to the extent that it remains compatible with the amendatory agreement.

(Tinga, J., Gammon Philippines, Inc. v. Metro Rail Transit Development Corporation, G.R. No. 144792, January 31, 2006)

Tenancy law; Essential Requisites of an Agricultural Tenancy Relationship.

Case law teaches that the essential requisites of an agricultural tenancy relationship are: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvests. All these requisites must concur for a tenancy relationship to exist. The absence of one does not make an occupant of a parcel of land, or a cultivator thereof, or a planter thereon, a *de jure* tenant. Unless a person establishes his status as *de jure* tenant, he is not entitled to security of tenure nor covered by the land reform program of the government under existing tenancy laws.

(Garcia, J., Valeriano B. Cano v. Spouses Vicente and Susan Jumawan, G.R. No. 153860, February 6, 2006)

CRIMINAL LAW

Illegal Use of Public Funds or Property (Technical Malversation); elements of:

The elements of the offense, also known as technical malversation, are: (1) the offender is an accountable public officer; (2) he applies public funds or property under his administration to some public use; and (3) the public use for which the public funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance. It is clear that for technical malversation to exist, it is necessary that public funds or properties had been diverted to any public use other than that provided for by law or ordinance. To constitute the crime, there must be a diversion of the funds from the purpose for which they had been originally appropriated by law or ordinance.

(Quisumbing, J., *Amando Tetangco v. The Hon. Ombudsman and Mayor Jose L. Atienza, Jr.*, G.R. No. 156427, January 20, 2006)

REMEDIAL LAW

Question of Fact and Question of Law; Distinguished.

On the issue of whether the defense of prescription is a question of fact or law, the distinction is settled that there is a question of fact when the doubt or difference arises as to the truth or falsehood of the alleged facts. On the other hand, a question of law exists when there is a doubt or controversy as to what the law is on a certain state of facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.

The test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.

In the case of *Santos, et al. v. Aranzanso* [116 SCRA 1, 4 (1982)], this Court has held that the question of prescription of the action involves the ascertainment of factual matters such as the date when the period to bring the action commenced to run. In *Lim v. Chan* [353 SCRA 55, 60 (2001)], this Court has again decreed that prescription is a factual matter when it held that without conducting trial on the merits, the trial court cannot peremptorily find the existence of estoppel, laches, fraud or prescription of actions as these matters require presentation of evidence and determination of facts.

(Chico-Nazario, J., *Marlene Crisostomo and Jose Crisostomo v. Florito M. Garcia, Jr.*, G.R. No. 164787, January 31, 2006)

Jurisdiction; Seizure and Forfeiture Proceedings.

The Supreme Court on numerous occasions, cautioned judges in their issuance of temporary restraining orders and writs of preliminary injunction against the Collector of Customs based on the principle enunciated in *Mison v. Natividad* [213 SCRA 734], and has issued Administrative Circular No. 7-99 to carry out this policy. The Court again reminds all concerned that the rule is clear: the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings and trial courts are precluded from assuming cognizance over such matters even through petitions for *certiorari*, prohibition, or *mandamus*.

(Azcuna, J., *Commissioner of Customs v. Court of Appeals*, G.R. Nos. 111202-05, January 31, 2006.

Execution of the Certification of Non-Forum Shopping.

The necessity for a certification of non-forum shopping in filing petitions for *certiorari* is found in Rule 65, Section 1, in relation to Rule 46, Section 3 of the Rules of Court. These provisions require it to be executed by the corresponding petitioner or petitioners. As no distinction is made as to which party must execute the certificate, this requirement is made to apply to both natural and juridical entities. When the petitioner is a corporation, the certification should be executed by a natural person. Furthermore, not just any person can be called upon to execute the certification, although

such a person may have personal knowledge of the facts to be attested to.

x x x

Thus, only individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping in behalf of a corporation. In addition, the Court has required that proof of said authority must be attached. Failure to provide a certificate of non-forum shopping is sufficient ground to dismiss the petition. Likewise, the petition is subject to dismissal if a certification was submitted unaccompanied by proof of the signatory's authority

x x x

The required certification of non-forum shopping must be valid at the time of filing of the petition. An invalid certificate cannot be remedied by the subsequent submission of a Secretary's Certificate that vests authority only after the petition had been filed.

(Azcuna, J., *Philippine Airlines, Inc. v. Flight Attendants and Stewards Association of the Philippines (FASAP)*, G.R. No. 143088, January 24, 2006)

Court's Interference with the Ombudsman's determination of probable cause; when proper.

It is well-settled that the Court will not ordinarily interfere with the Ombudsman's determination of whether or not probable cause exists except when it commits grave abuse of discretion. Grave abuse of discretion exists where a power is exercised in an arbitrary, capricious, whimsical or despotic manner by reason of passion or personal hostility so patent and gross as to amount to evasion of positive duty or virtual refusal to perform a duty enjoined by, or in contemplation of law. Thus, we held in *Roxas v. Vasquez* [358 SCRA 636, 646]:

... this Court's consistent policy has been to maintain non-interference in the determination of the Ombudsman of the existence of probable cause, provided there is no grave abuse in the exercise of such discretion. This observed policy is based not only on respect for the investigatory

and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the Court will be seriously hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped with cases if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.

(Quisumbing, J., *Amando Tetangco v. The Hon. Ombudsman and Mayor Jose L. Atienza, Jr.*, G.R. No. 156427, January 20, 2006)

In issuing warrants of arrest, judges do not conduct a *de novo* hearing to determine the existence of probable cause.

It should be emphasized that before issuing warrants of arrest, judges merely determine personally the probability, not the certainty, of guilt of an accused. Hence, judges do not conduct a *de novo* hearing to determine the existence of probable cause. They just personally review the initial determination of the prosecutor finding a probable cause to see if it is supported by substantial evidence. In case of doubt on the existence of probable cause, the Rules allow the judge to order the prosecutor to present additional evidence. In the present case, it is notable that the resolution issued by State Prosecutor Benny Nicdao thoroughly explains the bases for his findings that there is probable cause to charge all the accused with violation of Article 315, par. 2(a) of the Revised Penal Code in relation to P.D. No. 1689.

(Azcuna, J., *Chester de Joya v. Judge Placido C. Marquez, et al.*, G.R. No. 162416, January 31, 2006)



SUPREME COURT

RESOLUTION OF THE COURT *EN BANC*, dated 22 November 2005, on A.M. No. 05-11-07-CTA

RE: REVISED RULES OF THE COURT OF TAX APPEALS

Acting on the letter of the Chairman of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the Proposed Revised Rules of the Court of Tax Appeals, the Court Resolved to **APPROVE** the same.

The Rule shall take effect on the fifteenth day of December 2005 following its publication in a newspaper of general circulation in the Philippines not later than 25 November 2005.

22 November 2005.

DAVIDE, JR., CJ, PUNO, PANGANIBAN, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA-MARTINEZ, CORONA, CARPIO-MORALES, CALLEJO, SR., AZCUNA, TINGA, GARCIA, JJ. *concur*, CHICO-NAZARIO, J., *on leave*.

REVISED RULES OF THE COURT OF TAX APPEALS

Pursuant to Section 8 of Republic Act No. 1125, as further amended by Republic Act No. 9282, the Court of Tax Appeals (hereinafter referred to as the Court) hereby adopts and promulgates the following Rules for the conduct of its business:

RULE 1 TITLE AND CONSTRUCTION

SECTION 1. Title of the Rules – These Rules shall be known and cited as the Revised Rules of the Court of Tax Appeals (RRCTA). (*RCTA, Rule 1, sec. 1a*)

SEC. 2. Liberal construction – The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court. (*RCTA, Rule 1, sec. 2a*)

SEC. 3. Applicability of the Rules of Court. – The Rules of Court in the Philippines shall apply suppletorily to these Rules. (*n*)

RULE 2 THE COURT, ITS ORGANIZATION AND FUNCTIONS

SECTION 1. Composition of the Court – The Court is composed of a presiding justice and five associate justices appointed by the President of the Philippines. In appropriate cases, the Court shall sit *en banc*, or in two Divisions of three justices each, including the

presiding justice, who shall be the Chairman of its First Division. (*n*)

SEC. 2. Exercise of powers and functions – The Court shall exercise its adjudicative powers, functions and duties *en banc* or in Divisions.

The Court shall sit *en banc* in the exercise of its administrative, ceremonial and non-adjudicative functions. (*n*)

SEC. 3. Court *en banc*; quorum and voting – The presiding justice or, in his absence, the most senior justice in attendance shall preside over the sessions of the Court *en banc*. The attendance of four justices of the Court shall constitute a quorum for its sessions *en banc*. The presence at the deliberation and the affirmative vote of four justices of the Court *en banc* shall be necessary for the rendition of a decision or resolution on any case or matter submitted for its consideration. Where the necessary majority vote cannot be had, the petition shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied.

No decision of a Division of the Court may be reversed or modified except by the affirmative vote of four justices of the Court *en banc* acting on the case.

Interlocutory orders or resolutions shall be acted upon by majority vote of the justices present constituting a quorum. (*Rules of Court, Rule 56, sec. 7a*)

SEC. 4. The Court in Divisions; quorum and voting – The chairman of the Division or, in his absence, its senior member shall preside over the sessions of the Court in Divisions. The attendance of at least two justices of the Court shall be necessary to constitute a quorum for its sessions in Divisions. The presence at the deliberation and the affirmative vote of at least two justices shall be required for the pronouncement of a judgment or final resolution of the Court in Divisions. (*n*)

SEC. 5. Hearings – The Court *en banc* or in Divisions shall conduct hearings on such days and at such times and at such places as it may fix, with notice to the parties concerned. However, the Friday of each week shall be devoted to hearing motions, unless, for special reasons, the Court *en banc* or in Divisions shall, *motu proprio* or upon motion of a party, fix another day for the hearing of any motion. (*RCTA, Rule 3, sec. 2a*)

SEC. 6. Disqualification of justices

(a) **Mandatory** – No justice or other officer or employee of the Court shall intervene, directly

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or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of the Court. Justices of the Court shall be disqualified from sitting in any case on the same grounds provided under the first paragraph, Section 1, Rule 137 of the Rules of Court. No person who has once served in the Court either as presiding justice or as associate justice shall be qualified to practice as counsel before the Court for a period of one year from his retirement or resignation as such. (*Rules of Court, Rule 137, sec. 1, par. 1a*)

- (b) *Disclosure and consent of parties and lawyers* – A justice disqualified under the first paragraph, Section 1 of Rule 137 of the Rules of Court, may, instead of withdrawing from a case or proceeding, disclose on the records the basis of his disqualification. If, based on such disclosure, the parties and lawyers, independently of the justice's participation, all agree in writing that the reason for the inhibition is immaterial or unsubstantial, the justice may participate in the action or proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the action or proceeding. (*Rules of Court, Rule 137, sec. 1, par. 1a*)
- (c) *Voluntary* – A justice of the Court may, in the exercise of his sound discretion, disqualify himself from sitting in a case or proceeding, for just or valid reasons other than those mentioned above. (*Rules of Court, Rule 137, sec. 1, par. 2a*)

A justice of the Court who inhibits himself from sitting in a case or proceeding shall immediately notify in writing the presiding justice and the members of his Division. (*n*)

SEC. 7. Motion to inhibit a justice – When a motion for inhibition of a justice is filed, the Court, *en banc* or in Division, shall act upon the motion. However, if the motion for inhibition is based on a discretionary ground, the Court shall refer the motion to the justice involved for his appropriate action. (*n*)

RULE 3

PLACE OF OFFICE, SEAL AND OFFICE HOURS

SECTION 1. Place of office – The Court shall have its principal office in Metro Manila. (*RCTA, Rule 3, sec. 1a*)

SEC. 2. Court seal – The seal of the Court shall be circular in form and shall be of the usual size. It shall bear, in its center, a design of the coat of arms of the Republic of the Philippines with the words "BATAS AT BAYAN" immediately underneath the design. On

the upper margin running from left to right are the words "COURT OF TAX APPEALS," and on its lower margin the words "REPUBLIKA NG PILIPINAS." (*RCTA, Rule 2, sec. 1a*)

SEC. 3. Seal, where affixed – The seal of the Court shall be affixed to all summons, *subpoenas*, notices, decisions, orders or resolutions, certified copies of official records and such other papers that the Court may require to be sealed. (*n*)

SEC. 4. Office hours – The Office of the Clerk of Court shall be open for the transaction of business and receiving petitions, complaints, pleadings, motions, and other papers, during the hours from eight o'clock in the morning to four-thirty o'clock in the afternoon on Mondays to Fridays, except on such days as may be designated by law or executive proclamation as non-working official holidays. (*RCTA, Rule 3, sec. 3a*)

RULE 4

JURISDICTION OF THE COURT

SECTION 1. Jurisdiction of the Court – The Court shall exercise exclusive original jurisdiction over or appellate jurisdiction to review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7. (*n*)

SEC. 2. Cases within the jurisdiction of the Court en banc – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

- (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
- (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
 - (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
 - (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

- (b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved

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by them in the exercise of their appellate jurisdiction;

- (c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;
- (d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;
- (e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;
- (f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;
- (g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over criminal offenses mentioned in the preceding subparagraph; and
- (h) Decisions, resolutions or orders of the Regional trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f). (n)

SEC. 3. Cases within the jurisdiction of the Court in Divisions – The Court in Divisions shall exercise:

- (a) Exclusive original or appellate jurisdiction to review by appeal the following:
 - (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
 - (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue

taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

- (3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;
- (4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures of other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
- (5) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs adverse to the Government under Section 2315 of the Tariff and Customs Code; and
- (6) Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture, in the case of

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agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties;

(b) Exclusive jurisdiction over cases involving criminal offenses, to wit:

(1) Original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue of the Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and

(2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in their original jurisdiction in criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed;

(c) Exclusive jurisdiction over tax collection cases, to wit:

(1) Original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and

(2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them within their respective territorial jurisdiction. (n)

RULE 5

FORM AND STYLE OF PAPERS

SECTION 1. Style – All papers filed with the Court shall be either printed or typewritten, and fastened on the upper left hand corner. All such papers shall have a caption, date and signature, and copies, as specified below. (RCTA, Rule 4, sec. 1a)

SEC. 2. Size and specifications – Printed or typewritten papers shall be typed doubled-spaced on good quality, unglazed and plain white paper eight and a half inches wide by thirteen inches long (legal-size), or eight and a quarter inches wide by eleven and three-fourths inches long (A4-size), at least substance twenty and printed on one side only without covers. There shall be a margin at the left-hand side of each page of not less than one and one-half inches in width and at the top, bottom and right-hand side of each page of not less than one inch in width. (RCTA, Rule 4, sec. 3a)

SEC. 3. Citations – Citations shall be indented at least one inch from the inside margin and typed single-spaced. (RCTA, Rule 4, sec. 4a)

SEC. 4. Number of copies – The parties shall file eleven signed copies of every paper for cases before the Court *en banc* and six signed copies for cases before a Division of the Court in addition to the signed original copy, except as otherwise directed by the Court. Papers to be filed in more than one case shall include one additional copy for each additional case. (RCTA, Rule 4, sec. 5a)

SEC. 5. Clear and legible copies – All copies shall be clear and legible. (RCTA, Rule 4, sec. 6a)

RULE 6

PLEADINGS FILED WITH THE COURT

SECTION 1. Complaint; contents. – The complaint shall contain allegations showing jurisdiction of the Court and a concise statement of the complete facts of the plaintiff's cause or causes of action. The complaint shall be verified and must contain a certification against forum shopping as provided in Sections 4 and 5, Rule 7 of the Rules of Court. (n)

SEC. 2. Petition for review; contents – The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition. (RCTA, Rule 5, sec. 2a)

SEC. 3. Payment of docket fees – The Clerk of Court shall not receive a petition for review for filing unless the petitioner submits proof of payment of the docket fees. Upon receipt of the petition or the complaint, it will be docketed and assigned a number, which shall

(Continued on NEXT page)

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be placed by the parties on all papers thereafter filed in the proceeding. The Clerk of Court will then issue the necessary summons to the respondent or defendant. (RCTA, Rule 5, sec. 3a)

SEC. 4. Bill of particulars

- (a) *Requirement for bill of particulars.* – The Court, on its own initiative or upon motion of either party filed before responding to a pleading or, if no responsive pleading is permitted by these Rules, within ten days after service of the pleading upon him, may order a party to submit a detailed statement of the nature of the claim or defense or of any matter stated in any pleading, which is not averred with sufficient definiteness or particularity. Such order or motion shall point out the defects complained of and the details desired. After service of the bill of particulars or of a more definite pleading, the moving or adverse party may file his responsive pleading within ten days. (RCTA, Rule 8, sec. 1a)
- (b) *Failure to comply.* – If the order issued by the Court pursuant to paragraph (a) above is not complied with within ten days after notice of the order, or within such other time as the Court may fix, the Court may strike out the pleading to which the motion was directed or may make such other order as it deems just. The Court may upon motion set aside the order, or modify it in the interest of justice. (RCTA, Rule 8, sec. 2a)
- (c) *Motion for bill of particulars when not allowed.* – No motion for bill of particulars shall be allowed in cases falling under Sections 3(a)(3) and 3(c)(2) of Rule 4 of these Rules. (n)

SEC. 5. Answer

- (a) *Time for filing and contents.* – Within fifteen days after service of summons, the respondent or the defendant shall file an answer to the petition or complaint which shall include all defenses in law and the specific provisions of law and applicable jurisprudence and grounds for dismissal of the petition or complaint, or which shall prevent and bar recovery. (Rule of Procedure for Civil Forfeiture, Asset Preservation and Freeze Order, Sec. 9, par. 2a; and RCTA, Rule 7, sec. 1a)
- (b) *Transmittal of records.* – The respondent Commissioner of Internal Revenue, Commissioner of Customs, the Secretary of Finance, the Secretary of Agriculture, or the Secretary of Trade and Industry, within ten days after his answer, the chairman of the Central Board of Assessment Appeals and the presiding

judges of the Regional Trial Courts, within ten days from receipt of notice, shall certify and forward to the Court all the records of the case in their possession, with the pages duly numbered, and, if the records are in separate folders, then the folders will also be numbered. If there are no records, such fact shall be manifested to the Court within the same period of ten days. The Court may, on motion, and for good cause shown, grant an extension of time within which to submit the aforesaid records of the case. Failure to transmit the records within the time prescribed herein or within the time allowed by the Court may constitute indirect contempt of court. (RCTA, Rule 7, sec. 2a)

SEC. 6. Entry of appearance – An attorney may enter his appearance by signing the initial pleading. An attorney may later enter his appearance only by filing an entry of appearance with the written conformity of his client.

The initial pleading or entry of appearance shall show:

- (1) The attorney's specific address which must not be a Post Office Box number;
- (2) His Roll of Attorney's Number;
- (3) The date and number of his current membership due in the Integrated Bar of the Philippines (IBP) per Official Receipt, or Lifetime Member Number;
- (4) Current Professional Tax Receipt (PTR) number together with date and place of issuance; and
- (5) MCLE certificate number and date of issue, unless exempt.

The attorney or party entering his appearance shall serve a copy of the entry of appearance upon the opposing party. An attorney who appears in open court without previously having filed his written appearance must give his business address to the Clerk of Court and file his written appearance within forty-eight hours from such open court appearance. An attorney or party who has filed his appearance and who changes his address of record shall notify the Clerk of Court and the adverse party of such change of address, and a separate notice of such change of address shall be filed for each additional case. (RCTA, Rule 10, sec. 1a)

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RULE 7

PROCEDURE IN THE COURT OF TAX APPEALS

SECTION 1. *Applicability of the Rules of the Court of Appeals, exception* – The procedure in the Court *en banc* or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules. (n)

RULE 8

PROCEDURE IN CIVIL CASES

SECTION 1. *Review of cases in the Court en banc* – In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. (n)

SEC. 2. *Review of cases in the Court in Division* – In appealed cases falling under the jurisdiction of the Court in Division in Sections 3(a)(1) to 3(a)(6) and 3(c)(2) of Rule 4, the party filing the case shall be called the Petitioner and the party against whom the case is filed shall be called the Respondent. The pleading shall be entitled Petition for Review.

In tax collection cases originally filed with the Court under Section 3(c)(1) of Rule 4, the party filing the case shall be called the Plaintiff and the party against whom the case is filed shall be called the Defendant. The pleading shall be entitled Complaint. In appealed tax collection cases, the original captions shall be retained. The party filing the appeal shall be called the Appellant and the party against whom the appeal is filed shall be called the Appellee. (RCTA, Rule 5, Sec. 1a)

SEC. 3. *Who may appeal; period to file petition*

- (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal

revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes. (n)

- (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)
- (c) A party adversely affected by a decision or ruling of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of their appellate jurisdiction may appeal to the Court by filing before it a petition for review within thirty days from receipt of a copy of the questioned decision or ruling. (n)

SEC. 4. *Where to appeal; mode of appeal*

- (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal. (n)
- (b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)
- (c) An appeal from a decision or ruling of the Central Board of Assessment Appeals or the Regional Trial Court in the exercise of their appellate jurisdiction shall be taken to the Court by filing before it a petition for review as

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provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)

RULE 9 PROCEDURE IN CRIMINAL CASES

SECTION 1. Review of cases in the Court – The review of criminal cases in the Court *en banc* or in Division shall be governed by the applicable provisions of Rule 124 of the Rules of Court. (n)

SEC. 2. Institution of criminal actions – All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing. (Rules of Court, Rule 110, sec. 2a; n)

The institution of the criminal action shall interrupt the running of the period of prescription. (Rules of Court, Rule 110, sec. 1, par. 2a)

SEC. 3. Prosecution of criminal actions – All criminal actions shall be conducted and prosecuted under the direction and control of the public prosecutor. In criminal actions involving violation of the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, and violations of the Tariff and Customs Code or other laws enforced by the Bureau of Customs, the prosecution may be conducted by their respective duly deputized legal officers. (Rules of Court, Rule 110, sec. 5, par. 6a)

SEC. 4. Warrant of arrest – Within ten days from the filing of the information, the Division of the Court to which the case was raffled shall evaluate the resolution of the public prosecutor and its supporting evidence. The Division may immediately dismiss the case if it finds that the evidence on record clearly fails to establish probable cause. If the Division finds probable cause, it shall issue a warrant of arrest signed by the Chairman of the Division. In case of doubt on the existence of probable cause, the Division may order the prosecutor to present additional evidence, *ex parte*, within five days from notice. (Rules of Court, Rule 112, sec. 6a)

SEC. 5. When search warrant may issue – The Division may issue a search warrant signed by its Chairman following the requirements of Rule 126 of the Rules of Court. (n)

SEC. 6. Bail, how amount fixed; approval – The amount of bail to be posted in a case filed with the Court shall be fixed and approved by the Division to which the case is raffled: *Provided, however*, that where the accused is arrested, detained or otherwise placed in custody outside the Metropolitan Manila area, any judge of the Regional Trial Court of the place where the arrest is made may accept and approve the bail for his release and appearance before the Division to which his case is assigned. The judge who accepted the bail and released the accused shall inform the Division that issued the order of arrest of his action and forward to it the papers relative to the case. (Rules of Court, Rule 114, sec. 17a)

SEC. 7. Conditions of the bail – The conditions of the bail are that the accused shall appear and answer the complaint or information in the Division of the Court to which it is raffled or transferred for trial and submit himself to its orders and processes. If convicted, and the case is appealed to the Court *en banc* or to the Supreme Court, he will surrender himself for the execution of such judgment as the Court *en banc* or the Supreme Court may render; or that, in the event the case is to be tried anew or remained for a new trial, he shall appear before the Division to which it may be remanded and submit himself to its orders and processes. (Rules of Court, Rule 114, sec. 2a)

SEC. 8. Release order – The Clerk of Court shall issue the corresponding release order. (Rules of Court, Rule 114, sec. 3a)

SEC. 9. Appeal; period to appeal

- (a) An appeal to the Court in criminal cases decided by a Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal pursuant to Sections 3(a) and 6, Rule 122 of the Rules of Court within fifteen days from receipt of a copy of the decision or final order with the court which rendered the final judgment or order appealed from and by serving a copy upon the adverse party. The Court in Division shall act on the appeal.
- (b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.
- (c) An appeal to the Court in criminal cases decided

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by the Regional Trial Courts in the exercise of their appellate jurisdiction shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or final order appealed from. The Court *en banc* shall act on the appeal. (n)

SEC. 10. Solicitor General as counsel for the People and government officials sued in their official capacity – The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. He may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: *Provided, however,* such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General. (n)

SEC. 11. Inclusion of civil action in criminal action – In cases within the jurisdiction of the Court, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall be deemed jointly instituted in the same proceeding. The filing of the criminal action shall necessarily carry with it the filing of the civil action. No right to reserve the filing of such civil action separately from the criminal action shall be allowed or recognized. (*Rules of Court, Rule 111, sec. 1[a], par. 1a*)

RULE 10

SUSPENSION OF COLLECTION OF TAX

SECTION 1. No suspension of collection of tax, except as herein prescribed – No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of his tax liability as provided under existing laws, except as hereinafter prescribed. (n)

SEC. 2. Who may file – Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any property of the taxpayer, or by whatever means, as provided under existing laws, may jeopardized the interest of the Government or the taxpayer, an interested party may file a motion for the suspension of the collection of the tax liability. (*RCTA, Rule 12, sec. 1a*)

SEC. 3. When to file – The motion for the suspension of the collection of the tax may be filed together with the petition for review or with the answer, or in a separate motion filed by the interested party at any stage of the proceedings. (*RCTA, Rule 12, sec. 2*)

SEC. 4. Contents and attachments of the motion – The motion for the suspension of the collection of the tax shall be verified and shall state clearly and distinctly the facts and the grounds relied upon in support of the motion. Affidavits and other documentary evidence in support thereof shall be attached thereto, which, if uncontroverted, would be admissible in evidence as proof of the facts alleged in the motion. (*RCTA, Rule 12, sec. 3a*)

SEC. 5. Opposition – Unless a shorter period is fixed by the Court because of the urgency of the motion, the adverse party shall, within five days after receipt of a copy of the motion, file an opposition thereto, if any, which shall state clearly and distinctly the facts and the grounds relied upon in support of the opposition. (*RCTA, Rule 12, sec. 4*)

SEC. 6. Hearing of the motion – The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. However, for the sake of expediency, the Court, *motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case. (*RCTA, Rule 12, sec. 5a*)

SEC. 7. Corporate surety bonds – In the selection and qualification of surety companies, the parties and the Court shall be guided by Supreme Court Circular A.M. No. 04-7-02-SC, dated July 20, 2004. (n)

RULE 11 PRE-TRIAL

SECTION 1. Applicability – The rule on pre-trial under Rules 18 and 118 of the Rules of Court, as amplified in A.M. No. 03-1-09-SC dated July 13, 2004 (Re: Rule on Guidelines to be Observed by Trial Court Judges and Clerk of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures), shall apply to all cases falling within the original jurisdiction of the Court, except that the parties may
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not be allowed to compromise the criminal liability or submit the case to mediation, arbitration or other mode of alternative dispute resolution. (n)

SEC. 2. Mandatory pre-trial – In civil cases, the Clerk of Court shall set the case for pre-trial on the first available date immediately following the tenth day after the filing of the answer.

In criminal cases, the Clerk of Court shall set the case for pre-trial not later than ten days after arraignment, if the accused is detained, nor later than thirty days if the accused is on bail. (RCTA, Rule 11, sec. 1a)

SEC. 3. Setting for an earlier date – Where, due to the urgency of the case, either party desires that the pre-trial be set on an earlier date, such party shall so state in his pleading, in which event the clerk of Court shall set the pre-trial on the first available date immediately after the filing of the answer. (RCTA, Rule 11, sec. 2a)

SEC. 4. Duty of the Court – The Court shall confer with the parties in pre-trial conferences with a view to narrowing the issues, making admissions or stipulating on facts, simplifying the presentation of evidence, or otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial. (n)

SEC. 5. Procedure in civil cases – In civil cases, the parties shall submit, at least three days before the pre-trial, their respective pre-trial briefs containing the following:

- (a) A statement of their willingness to compromise the civil liability indicating its desired terms, except that the case shall not be subject to referral to mediation, arbitration or other mode of alternative dispute resolution;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The issues to be tried or resolved;
- (d) The documents or exhibits to be presented, stating their purpose. No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been pre-marked and identified, unless allowed by the Court to prevent manifest injustice;
- (e) A manifestation of their having availed themselves of discovery procedures or referral to commissioners; and
- (f) The numbers and names of the witnesses, the substance of their testimonies and the

approximate number of hours that will be required by the parties for the presentation of their respective witnesses.

The consequence on the party at fault shall be the same as the effect of failure to appear.

Failure to file the pre-trial brief or to comply with its required contents shall have the same effect as failure to appear at the pre-trial. (Rules of Court, Rule 18, sec. 6a)

SEC. 6. Procedure in criminal cases

- (a) *Before the preliminary conference.* – Before the pre-trial conference, the Court may issue an order referring the case to the Division Clerk of Court for a preliminary conference of the parties at least three days prior to the pre-trial:
 - (1) To mark the documents or exhibits to be presented by the parties and copies to be attached to the records after comparison;
 - (2) To consider other matters as may aid in its disposition; and
 - (3) To inform the parties that no evidence shall be allowed to be presented and offered during the trial other than those identified and marked during the pre-trial unless allowed by the Court to prevent manifest injustice. (Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures, Sec. 1B[2]a)
- (b) *During the preliminary conference.* – The Division Clerk of Court shall:
 - (1) Mark the documents to be presented as exhibits and copies attached to the records after comparison;
 - (2) Ascertain from the parties the undisputed facts and admission on the genuineness and due execution of documents marked as exhibits; and
 - (3) Consider such other matters as may aid in the prompt disposition of the case.

The proceedings during the preliminary conference shall be recorded in the minutes of preliminary conference to be signed by both parties and counsel. The Division Clerk of Court shall attach the minutes of preliminary conference and the exhibits to the case record before the pre-trial. (Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures, Sec. 1B[3]a)

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(c) *During the pre-trial conference.* – The Court at the pre-trial conference shall consider the following:

- (1) Stipulation of facts and issues raised;
- (2) Marking for identification of evidence of the parties;
- (3) Waiver of objections to admissibility of evidence;
- (4) Modification of order of trial; and
- (5) Such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.

(*Rules of Court, Rule 118, sec. 1a*).

All agreements or admissions made or entered during the pre-trial conference shall be in writing and signed by the accused and counsel; otherwise, they cannot be used in evidence against the accused. The agreements shall be subject to the approval of the Court.

(*Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition –Discovery Measures, Sec. IB[8]a; and Rules of Court, Rule 118, sec. 2a*)

The Court may impose appropriate sanctions or penalties on the accused or counsel or the prosecutor who does not appear at the pre-trial conference and does not offer an acceptable excuse for his absence and lack of cooperation. (*Rules of Court, Rule 118, sec. 3a*)

(d) *Pre-trial order.* – After the pre-trial conference, the Court shall issue a pre-trial order reciting the actions taken, the facts stipulated, the admissions made, evidence marked, and such other matters covered during the pre-trial conference. The order shall bind the parties, limit the trial to matters not disposed of and control the course of the action during the trial, unless modified by the Court to prevent manifest injustice. (*Rules of Court, Rule 118, sec. 4a*)

RULE 12 TRIAL

SECTION 1. Procedure – The Court shall conduct the trial in accordance with Rule 30 of the Rules of Court in civil cases and Rule 119 thereof in criminal cases. (*n*)

SEC. 2. Power of the Court to receive evidence – The Court may receive evidence in the following cases:

- (a) In all cases falling within the original

jurisdiction of the Court in Division pursuant to Section 3, Rule 4 of these Rules; and

- (b) In appeals in both civil and criminal cases where the Court grants a new trial pursuant to Section 2, Rule 53 and Section 12, Rule 124 of the Rules of Court. (*n*)

SEC. 3. Taking of evidence by a justice – The Court may, *motu proprio* or upon proper motion, direct that a case, or any issue therein, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises at any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account. The hearing before such justice shall proceed in all respects as though the same had been made before the Court.

Upon the completion of such hearing, the justice concerned shall promptly submit to the Court a written report thereon, stating therein his findings and conclusions. Thereafter, the Court shall render its decision on the case, adopting, modifying, or rejecting the report in whole or in part, or, the Court may, in its discretion, recommit it to the justice with instructions, or receive further evidence. (*n*)

SEC. 4. Taking of evidence by Court official – In default or *ex parte* hearings, or in any case where the parties agree in writing, the Court may delegate the reception of evidence to the Clerk of Court, the Division Clerks of Court, their assistants who are members of the Philippine bar, or any Court attorney. The reception of documentary evidence by a Court official shall be for the sole purpose of marking, comparison with the original, and identification by witnesses of such documentary evidence. The Court official shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the Court upon submission of his report and the transcripts within ten days from termination of the hearing. (*Rules of Court, Rule 30, sec. 9a*)

SEC. 5. Presentation of voluminous documents or long accounts – In the interest of speedy administration of justice, the following rules shall govern the presentation of voluminous documents or long accounts, such as receipts, invoices and vouchers, as evidence to establish certain facts:

- (a) *Summary and CPA certification* – The party who desires to introduce in evidence such voluminous documents or long accounts must, upon motion and approval by the Court, refer the voluminous documents to an independent

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Certified Public Accountant (CPA) for the purpose of presenting:

- (1) A summary containing, among other matters, a chronological listing of the numbers, dates and amounts covered by the invoices or receipts and the amount(s) of taxes paid; and
- (2) A certification of an independent CPA attesting to the correctness of the contents of the summary after making an examination, evaluation and audit of voluminous receipts, invoices or long accounts.

The name of the Certified Public Accountant or partner of a professional partnership of certified public accountants in charge must be stated in the motion. The Court shall issue a commission authorizing him to conduct an audit and, thereafter, testify relative to such summary and certification.

- (b) *Pre-marking and availability of originals* – The receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and CPA certification. The original copies of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on its authenticity is raised during the hearing or resolution of the formal offer of evidence. (n)

RULE 13 TRIAL BY COMMISSIONER

SECTION 1. *Appointment of independent Certified Public Accountant (CPA)* – A party desiring to present voluminous documents in evidence before the Court may secure the services of an independent certified Public Accountant (CPA) at its own expense. The Court shall commission the latter as an officer of the Court solely for the purpose of performing such audit functions as the Court may direct. (n)

SEC. 2. *Duties of independent CPA* – The independent CPA shall perform audit functions in accordance with the generally accepted accounting principles, rules and regulations, which shall include:

- (a) Examination and verification of receipts, invoices, vouchers and other long accounts;
- (b) Reproduction of, and comparison of such

reproduction with, and certification that the same are faithful copies of original documents, and pre-marking of documentary exhibits consisting of voluminous documents;

- (c) Preparation of schedules or summaries containing a chronological listing of the numbers, dates and amounts covered by receipts or invoices or other relevant documents and the amount(s) of taxes paid;
- (d) Making findings as to compliance with substantiation requirements under pertinent tax laws, regulations and jurisprudence;
- (e) Submission of a formal report with certification of authenticity and veracity of findings and conclusions in the performance of the audit;
- (f) Testifying on such formal report; and
- (g) Performing such other functions as the Court may direct. (n)

SEC. 3. *Findings of independent CPA* – The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification. (n)

SEC. 4. *Other referral to commissioner* – Whenever practicable and convenient, the Court may apply the procedure prescribed in Rule 32 of the Rules of Court. When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (n)

SEC. 5. *Compensation of Commissioner* – The Court shall allow the commissioners such reasonable compensation as the circumstances of the case may warrant. (Rules of Court, Rule 32, sec. 13a)

RULE 14 JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. *Rendition of judgment* – The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or

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chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. (2002 *Internal Rules of the Court of Appeals, Rule VI, secs. 9 and 10a; and Rules of Court, Rule 51, sec. 2a*)

SEC. 2. Form of decision – Every decision or final resolution of the Court shall be in writing, stating clearly and distinctly the findings of fact and the conclusions of law on which it is based, and signed by the justices concurring therein. Such findings and conclusions shall be contained in the decision or final resolution itself. However, in appealed cases, the Court may adopt by reference the findings and conclusions set forth in the decision, order or resolution appealed from.

Every decision of the Court shall be accompanied by a certification signed by the presiding justice or acting presiding justice, chairman or most senior member as acting chairman of the Court *en banc* or in Division in the following form:

“Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.” (Rules of Court, Rule 51, sec 5a; and 2002 *Internal Rules of the Court of Appeals, Rule VI, sec. 11a*)

SEC. 3. Amended decision – Any action modifying or reversing a decision of the Court *en banc* or in Division shall be denominated as Amended Decision. (2002 *Internal Rules of the Court of Appeals, Rule VI, sec. 12a*)

SEC. 4. Resolution – Any disposition of the Court *en banc* or in Divisions other than on the merits shall be embodied in a Resolution. (2002 *Internal Rules of the Court of Appeals, Rule VI, sec. 12a*)

SEC. 5. Promulgation and notice of decision and resolution – The Clerk of Court or Deputy Clerk of

Court shall have the direct responsibility for the promulgation of the decision and resolution of the Court. He shall see to it that the decision and resolution are properly signed by the concurring and dissenting justices and the required certification is duly accomplished.

Promulgation consists of the filing of the decision or resolution with the Clerk of Court or Division Clerk of Court, who shall forthwith annotate the date and time of receipt and attest to it by his signature thereon. He shall serve notice of such decision or resolution upon the parties or their counsel, furnishing them with certified true copies thereof. (2002 *Internal Rules of the Court of Appeals, Rule VI, sec. 13a; and Rules of Court, Rule 51, sec. 9a*)

In criminal cases originally filed with and decided by the Court in Division, the chairman shall cause the decision or resolution to be filed with the Division Clerk of Court in a sealed envelope, who shall schedule its promulgation, giving notice to the prosecution, the accused personally or through his bondsman or warden, and counsel requiring their presence at the promulgation.

The promulgation shall consist of the reading by the Division Clerk of Court of the dispositive portion of the decision or resolution in the presence of the accused and a justice of the Division that rendered the same. If the accused is detained, the warden shall produce him before the Court. However, if he is detained outside Metro Manila, the Court may authorize the executive judge of the Regional Trial Court having territorial jurisdiction over the place of detention to promulgate the decision or resolution at such place. (Rules of Court, Rule 120, sec. 6a)

SEC. 6. Entry of judgment and final resolution – If no appeal or motion for reconsideration or new trial is filed within the time provided in these Rules, the Clerk of Court shall forthwith enter the judgment or final resolution in the book of judgment. The date when the judgment or final resolution becomes executory shall be deemed the date of its entry. The entry shall contain the dispositive part of the judgment or final resolution and shall be signed by the Clerk of Court, with a certification that such judgment or resolution has become final and executory. (Rules of Court, Rule 51, sec. 10a)

SEC. 7. Execution of judgment – Upon the expiration of the period to appeal from a judgment or order that disposes of the action or proceeding and no appeal has been duly perfected, execution shall issue as a matter of right, on motion.

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If an appeal has been duly perfected and finally resolved, execution may be forthwith applied for in the court of origin, on motion of the judgment obligee, submitting therewith a certified true copy of the judgment or final order sought to be enforced and of its entry, with notice to the adverse party. (*Rules of Court, Rule 39, sec. 1a*)

RULE 15
MOTION FOR RECONSIDERATION
OR NEW TRIAL

SECTION 1. Who may and when to file motion – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question. (*RCTA, Rule 13, sec. 1a*)

SEC. 2. Opposition – The adverse party may file an opposition to the motion for reconsideration or new trial within ten days after his receipt of a copy of the motion for reconsideration or new trial of a decision, resolution or order of the Court. (*RCTA, Rule 13, sec. 2a*)

SEC. 3. Hearing of the Motion – The motion for reconsideration or new trial, as well as the opposition thereto, shall embody all supporting arguments and the movant shall set the same for hearing on the next available motion day. Upon the expiration of the period set forth in the next preceding section, without any opposition having been filed by the other party, the motion for reconsideration or new trial shall be considered submitted for resolution, unless the Court deems it necessary to hear the parties on oral argument, in which the case the Court shall issue the proper order. (*RCTA, Rule 13, sec. 3a*)

SEC. 4. Effect of filing the motion – The filing of a motion for reconsideration or new trial shall suspend the running of the period within which an appeal may be perfected. (*RCTA, Rule 13, sec. 4a*)

SEC. 5. Grounds of motion for new trial – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

- (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
- (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and

produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived. (*Rules of Court, Rule 37, sec. 1a*)

SEC. 6. Contents of motion for reconsideration or new trial and notice – The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma*, which shall not toll the reglementary period for appeal. (*Rules of Court, Rule 37, sec. 2a*)

SEC. 7. No second motion for reconsideration or for new trial – No party shall be allowed to file a second motion for reconsideration of a decision, final resolution or order; or for new trial. (*Rules of Court, Rule 52, sec. 2a*)

SEC. 8. Ruling – The Court shall resolve the motion for reconsideration or new trial within three months from the time it is deemed submitted for resolution. (*Rules of Court, Rule 52, sec. 3a*)

RULE 16
APPEAL

SECTION 1. Appeal to Supreme Court by petition for review on certiorari – A party adversely affected by a decision or ruling of the Court *en banc* may appeal therefrom by filing with the Supreme Court a verified petition for review on certiorari within fifteen days from receipt of a copy of the decision or resolution, as provided in Rule 45 of the Rules of Court. If such party has filed a motion for reconsideration or for new trial, the period herein fixed shall run from the party's receipt of a copy of the resolution denying the motion for reconsideration or for new trial. (*n*)

SEC. 2. Effect of appeal – The motion for reconsideration or for new trial filed before the Court shall be deemed abandoned if, during its pendency, the movant shall appeal to the Supreme Court

A.M. NO. 05-11-07-SC (continued)

pursuant to Section 1 of this Rule. (2002 Internal Rules of the Court of Appeals, Rule VI, sec. 15a)

**RULE 17
LEGAL FEES AND COSTS**

SECTION 1. Additional fees and costs – In addition to the fees prescribed in Rule 141 of the Rules of Court and all amendments thereto, the following legal fees and costs shall be collected:

- (a) For reception of evidence by a Court official pursuant to Section 4, Rule 12 of these Rules five hundred pesos for each day of actual sessions; and
- (b) For any other services of the Clerk of Court and other Court officials not provided for in Rule 141 of the Rules of Court, two hundred pesos. (n)

**RULE 18
EFFECTIVITY**

SECTION 1. Effectivity of the Revised Rules – These Rules shall take effect on the fifteenth day of December 2005 following their publication in a newspaper of general circulation in the Philippines not later than 25 November 2005. (n)



ADMINISTRATIVE CIRCULAR NO. 21-2006

GUIDELINES FOR THE IMPLEMENTATION OF THE DRUG PREVENTION PROGRAM FOR THE FIRST AND SECOND LEVEL COURTS

Pursuant to Memorandum Order No. 18-2005 dated 25 April 2005 entitled “Establishing a Program to Deter the Use of Dangerous Drugs and Authorizing the Use of Random Drug Testing on the Personnel of the Judiciary,” the following guidelines for the Drug Prevention Program in the first and second level courts are hereby adopted:

I. Objectives

1. To detect the use of dangerous drugs among lower court employees, impose disciplinary sanctions, and provide administrative remedies in cases where an employee is found positive for dangerous drug use.
2. To discourage the use and abuse of dangerous drugs among first and second level court employees and enhance awareness of their adverse effects by information dissemination and periodic random drug testing.

3. To institute other measures that address the menace of drug abuse within the personnel of the Judiciary. .

II. Definition of terms

1. *Employee* - refers to all judges or personnel of the first and second level courts regardless of status of appointment.
2. *Area* - refers to any of the different judicial regions.
3. *Dangerous drugs* - refers to prohibited or regulated substances that include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the annexes that form part of Republic Act No. 9165.
4. *Random drug test* - refers to the mandatory methodical and unannounced conduct of drug test using appropriate scientific random sampling technique based on time, area, and/or subjects, with each employee having an equal probability of being selected for testing.
5. *Screening test* - a rapid test performed to establish potential or presumptive positive result and conducted for the determination of the type of drug(s) used by the subject.
6. *Confirmatory test* - an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.
7. *Custody and Control Form (CCF)* - a Department of Health (DOH) approved form used to document the collection, transport, security, and test results of the specimen.

III. Coverage

These Guidelines shall cover (1) all officials and employees in the first and second level courts of the Judiciary; and (2) all other workers detailed or working in the said courts such as, but not limited to: (a) personnel detailed to the courts and compensated by any particular local government unit; (b) security and janitorial services personnel hired through service contracts; and (c) other personnel not covered by the term “employees” as defined herein.

(Continued on NEXT page)

A.C. NO. 21-2006 (continued)

IV. Mechanics for the implementation of the Drug Prevention Program

A. Creation of a Drug Prevention Committee for First and Second Level Courts (DPC-FSLC)

1. *Composition* - The Drug Prevention Committee for First and Second Level Courts (DPC-FSLC) shall be created with the Court Administrator or his representative as Chairperson; the Chief of the Supreme Court Medical and Dental Services or his representative as Vice-Chairperson; and the representatives of the Office of Administrative Services, the Court Management Office, the Legal Office, and the Financial Management Office in the Office of the Court Administrator, as well as two representatives of the Philippine Association of Court Employees (PACE) for the 1st and 2nd level court employees, as Members. The Chairperson, in consultation with the members of the Committee, shall designate the DPC-FSLC Recorder-Secretary and Assistant Recorder-Secretary.

2. *Functions*. - The DPC-FSLC shall:

- (a) Determine the area and time for the conduct of the mandatory random drug test using appropriate random sampling technique;
- (b) Oversee the conduct of the mandatory random drug test for the employees of the first and second level courts, tapping for this purpose, the assistance and expertise of appropriate government agencies;
- (c) Refer to the appropriate government rehabilitation center employees (i) who voluntarily admit without undergoing the Screening Test that he or she uses dangerous drugs, and (ii) who fail the drug test without challenging the results thereof;
- (d) Evaluate the validity and reasonableness of the ground(s) for refusal or failure of selected employees to undergo the required drug test, and forthwith refer the same to the Office of the Court Administrator for proper disposition;
- (e) Evaluate the fitness of an employee to

return to work after having undergone rehabilitation on the basis of medical findings and recommendations;

- (f) Keep the results of the mandatory random drug test and all other data gathered in connection therewith;
- (g) Act on all concerns that may arise in connection with the actual conduct of the mandatory random drug test; and
- (h) Coordinate with the Executive Judges in gathering and receiving information and other relevant data relative to drug use in their respective regions.

B. Dangerous drug use prevention information campaign

The Philippine Judicial Academy, in coordination with the DPC-FSLC, shall create and implement a program that will increase the awareness and education of the employees of the first and second level courts on the adverse effects of dangerous drugs.

C. Selection of subject personnel

1. Pursuant to its functions of overseeing the conduct of random drug tests, the DPC-FSLC shall prepare a strategy using selective sampling of court personnel to determine the subjects and the area for the conduct of the said test. The number of employees to be tested every year must be more or less fifty percent (50%) of the actual number of employees nationwide.
2. The DPC-FSLC may *motu proprio* or, upon the recommendation of the proper Presiding Judge, the Executive Judge may direct a court personnel to subject himself or herself to a drug test should there be reasonable ground to believe that he or she is a habitual user of dangerous drugs. The Executive Judge shall determine such reasonable ground based on specific contemporaneous and articulable observations concerning such matters as the appearance, behavior, speech or physical manifestation of the concerned employee.

D. Random drug testing

1. Procedure

- (a) The DPC-FSLC shall authorize a team, which shall include a specimen collector

A.C. NO. 21-2006 (continued)

- duly authorized by the DOH, that shall conduct the random drug test in any particular area only after the written permission to conduct the test in his jurisdiction shall have been granted by the Executive Judge.
- (b) The team shall ensure that there is a clean toilet or partitioned area where the test will be conducted to prevent adulteration of specimen.
- (c) The authorized specimen collector shall:
- (i) ensure that the subject employee has not concealed any substance that might be used to adulterate the specimen and that he or she has no access to any such unregulated substance within the testing area;
 - (ii) provide the subject employee with a clean specimen container;
 - (iii) remain outside the toilet or partitioned cubicle as the subject employee provides the specimen;
 - (iv) see to it that the subject employee hands him the specimen before flushing the toilet;
 - (v) check the volume of the urine in the specimen container;
 - (vi) check the temperature of the urine specimen;
 - (vii) inspect the specimen to determine its color and appearance for any signs of contaminants; and
 - (viii) note any unusual findings on the chain of the custody form.
- (d) The subject employee shall:
- (i) remove his or her outer garments that might conceal items or substances that could be used to tamper with or adulterate his or her urine specimen;
 - (ii) wash and dry his or her hands;
 - (iii) remain in the presence of the authorized specimen collector so that he or she will not have access to any unregulated source of water, soap, dispenser, cleaning agent, or any other material that could be used to adulterate the specimen;
 - (iv) collect and provide the specimen inside the toilet or partitioned area; and
 - (v) not flush the toilet until after he or she shall have handed over the specimen to the authorized specimen collector.
- (e) Before the urine specimen container is sealed and labeled, both the subject employee and the authorized specimen collector shall keep it within sight of the team.
- (f) The specimen bottle shall have an identification label with these entries: (i) name of subject employee; (ii) date of specimen collection; (iii) signature of the subject employee; and (iv) specimen identification number.
- (g) The authorized specimen collector shall provide all information required in the Custody and Control Form (CCF) and ensure that each copy shall be given to the proper custodian thereof.
- (h) The DPC-FSLC shall have custody of the results of the Screening Test, which are strictly confidential unless its contents are required to be disclosed in an appropriate proceeding.
2. An employee who is found positive for dangerous drug use based on the Screening Test may either:
- (a) admit dangerous drug use, in which case he or she shall be, immediately referred to the proper government agency for medical evaluation, counseling and rehabilitation, as circumstances may require; or
 - (b) challenge the result of the Screening Test within fifteen (15) days from receipt thereof, in which case, he or she shall undergo a Confirmatory Test.
- E. Confirmatory Test
1. The procedure prescribed above for the conduct of the Screening Test shall also be observed in the conduct of the Confirmatory

(Continued on NEXT page)

Test insofar as the same is applicable without prejudice to the DPC-FSLC coming up with reasonable supplemental procedure as its discretion may dictate.

2. An employee who is found positive of dangerous drug use after the conduct of the Confirmatory Test shall be proceeded against either administratively or criminally or both unless he or she voluntarily admits drug use and undergo rehabilitation. The employee shall be accorded ample opportunity to challenge the result of the Confirmatory Test in the administrative case.

V. Liability of subject employee

1. An employee who refuses or fails to undergo drug testing for any unmeritorious reason, as determined by the DPC-FSLC, shall be administratively liable for "Insubordination" pursuant to Section 52 (B) (5) of the Uniform Rules on Administrative Cases in the Civil Service;
2. An employee who refuses to undergo rehabilitation after having been found positive for dangerous drug use in a Confirmatory Test shall be administratively liable for "Conduct Prejudicial to the Best Interest of the Service," without prejudice to criminal prosecution under the provisions of Republic Act No. 9165.
3. An employee who undergoes rehabilitation shall be considered on sick leave, as may be allowed by civil service rules.

VI. Funding

The cost of random drug testing of officials and employees shall initially be funded out of the available savings of the first and second level courts until its inclusion in the general appropriations law for the next fiscal year.

VII. Effectivity

These Guidelines shall take effect immediately.

Issued this 24th day of February 2006.

(Sgd.) ARTEMIO V. PANGANIBAN
Chief Justice



OFFICE OF THE COURT ADMINISTRATOR

OCA CIRCULAR NO. 06-2006

TO : ALL REGIONAL TRIAL COURT JUDGES

SUBJECT: FAITHFUL AND EFFICIENT COMPLIANCE WITH THE REQUIREMENTS OF R.A. NO. 9165 OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002," PARTICULARLY SECTION 21 PARAGRAPH 4 THEREOF

In order to forestall the suspicion on the "recycling" of dangerous drugs and to ensure the safety of the community where said dangerous drugs and substances are located, you are hereby REMINDED of the pertinent provisions under **paragraph 4 Section 21 of Republic Act No. 9165** otherwise known as the "*Comprehensive Dangerous Drugs Act of 2002*" which mandates the immediate destruction and/or disposition of seized dangerous drugs and substances. Section 21, paragraph 4, thereof provides:

xxx

"Sec. 21. Custody and Disposition of Confiscated Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

xxx

(4) After the filing of the criminal case, the Court shall, **within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment** and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or **burning of the same**, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper

disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample duly weighed and recorded is retained." [emphasis supplied]

xxx

For your guidance and strict compliance.

16 January 2006.

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



OCA CIRCULAR NO. 58-2006

**TO: ALL JUSTICES OF THE COURT OF APPEALS,
SANDIGANBAYAN, COURT OF TAX APPEALS
AND JUDGES OF THE FIRST AND SECOND
LEVEL COURTS**

**SUBJECT: AMENDMENT TO SECTION 8 OF A.M.
NO. 03-03-13-SC, RE: RULE ON
ADMINISTRATIVE PROCEDURE IN
SEXUAL HARASSMENT CASES AND
GUIDELINES ON PROPER WORK
DECORUM IN THE JUDICIARY**

For your information and guidance, quoted hereunder is a portion of the Resolution of this Court *En Banc* dated 07 March 2006, in A.M. No. 05-12-757-RTC, Re: *Sexual Harassment Committed by Judge Rexel M. Pacuribot, Regional Trial Court, Branch 27, Gingoog City*, which AMENDS Section 8 of AM. No. 03-03-13-SC, Re: *The Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary*, to wit:

"NOW THEREFORE, BE IT RESOLVED, as it is hereby Resolved, that in accordance with Section 6, Article VIII of the Constitution vesting this Court with the power of administrative supervision over all courts and personnel thereof, inclusive of which is the authority to discipline Judges and Justices, complaints of sexual harassment against Judges of regular and special courts and Justices of the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals should be excluded from the jurisdiction of the CODIs. Accordingly, Section

8 of A.M. No. 03-03-13-SC, the *Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary* is hereby amended to read as follows:

Sec. 8. *Jurisdiction, powers and responsibilities of the CODIs.* - The CODIs shall have jurisdiction over all complaints for sexual harassment committed by the officials and employees of the Judiciary, except those against Judges of regular and special courts and Justices of the Court of Appeals. The Sandiganbayan and the Court of Tax Appeals, which shall fundamentally adhere to the proceeding laid down in Section 3 of Rule 140 of the Rules of Court, as amended.

CODIs shall:

- (a) Receive the complaint, investigate its allegations, and submit a report and recommendation to the proper court or authority, as provided for in Section 18 of this Rule;

x x x x. [Emphasis supplied.]"

27 March 2006.

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



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

2007 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
Mar. 27-April 7 April 5-7	Orientation Seminar-Workshop for Newly-Appointed Judges 6 th Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)	PHILJA, Tagaytay City Ridgewood Residence, Baguio City
April 12	Roundtable Discussion on Liberty and Prosperity	Cebu City
April 18-20	Capacity Enhancement Training for Family Court Judges and Personnel in Handling Child Abuse Cases	Hotel Dominique, Tagaytay City
April 18-20	Environmental Law Seminar-Workshop for Selected Judges of Samar, Leyte and Bohol	Leyte Park Hotel, Tacloban City
April 19-21 April 26-28	5 th Convention and Seminar of the PACSWI RJCEP for 6 th Judicial Region	Olongapo City Amigo Terrace Hotel, Iloilo City
April 26-28 May 3-5	5 th Convention and Seminar of the JACOPHIL 7 th Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level)	Malaybalay City, Bukidnon Waterfront Insular Hotel, Davao City
May 17-19	4 th National Convention and Seminar of the PHILACI	Naga City
May 18-19	Environmental Law Seminar-Workshop for Selected Judges of Caraga and Davao	Grand Regal Hotel, Davao City
May 29-June 9 May 31-June 2	Orientation Seminar-Workshop for Newly-Appointed Judges FLECCAP Convention and Seminar	PHILJA, Tagaytay City Tagbilaran City, Bohol

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