



# PHILJA Bulletin



October to December 2006

Volume VIII, Issue No. 32

Excellence in the Judiciary

## From the Chancellor's Desk *Ben*

PHILJA congratulates Honorable Reynato S. Puno as the new Chief Justice of the land and is heartened by his statement before PHILJA's officials and staff that judicial education would be one of the centerpieces of his term.

Sharing top billing in this quarter was the Global Forum on Liberty and Prosperity which was hailed by both local and foreign delegates as an "outstanding program of real significance" and commended for its efficient organization. PHILJA was specially proud of the *Joint Declaration on Liberty and Prosperity*, crafted by the delegates, as a significant outcome of this Forum wherein they declared that "the safeguarding of the rights and liberties of citizens, and the promotion of their economic well-being, are inseparable key objectives of the Rule of Law." In his Keynote Address, Chief Justice Panganiban expounded on how the realization of the twin beacons of *Liberty* and *Prosperity* could benefit all peoples of the world.

This quarter also brought to our doors more opportunities for the sharing and exchange of ideas and experiences with other judicial institutions. We have taken off from the signing of the Memoranda or Frameworks of Agreement, signed by then Chief Justice Artemio V. Panganiban, with Egypt, France, and Spain, and have welcomed new affiliations with Bangladesh and Guam. We are thankful for the recognition accorded our efforts in judicial education as we continue to develop our programs and employ new practices/methodology for its advancement, particularly for the Philippine Judiciary. For this reason, the provision for adequate training facilities and equipment is being addressed through the Japan Government's grant of P300M, allocated exclusively for the construction, renovation, and equipping of the Philippine Development Center in Tagaytay City. The unveiling of the foundation granite marker in November marked the start of the process towards the building's construction.

(Continued on page 11)

## Table of Contents

From the Chancellor's Desk.....	1	OCA Circular No. 149-2006 - Amendment of Rule 139-B .....	16
PHILJA News.....	2	OCA Circular No. 156-2006 - Authority to Notarize Documents.....	16
New Rulings of the Supreme Court .....	9	OCA Circular No. 157-2006 - 2004 Rules on Notarial Practice.....	17
Doctrinal Reminders .....	12	OCA Circular No. 162-2006 - Request for Clarification whether it is still necessary for Justices and Judges to secure an Ombudsman Clearance for Purposes of their Application for Retirement.....	18
Resolutions, Orders and Circulars		Upcoming PHILJA Events .....	20
<i>Supreme Court</i>			
<i>Special Order No. 443- Reorganization of the Three Divisions of the Supreme Court and the Designations of the Chairpersons and Members thereof.....</i>	15		
<i>Office of the Court Administrator</i>			
OCA Circular No. 146-2006 - Prohibition Against Dual Appointments and Double Compensation of a Government Employee.....	15		



## PHILJA ACADEMIC PROGRAMS

### 43<sup>RD</sup> ORIENTATION SEMINAR-WORKSHOP FOR NEWLY APPOINTED JUDGES

The 43<sup>rd</sup> Orientation Seminar-Workshop for Newly Appointed Judges was held on November 22 to 30, 2006, at the PHILJA Development Center, Tagaytay City. In attendance were twenty-eight (28) judges, comprising twenty-seven (27) newly appointed judges and one (1) promoted judge.

#### A. NEW APPOINTMENTS

##### REGIONAL TRIAL COURTS

###### NATIONAL CAPITAL JUDICIAL REGION

Hon. Carlos A. Valenzuela  
*RTC Br. 213, Mandaluyong City*

###### REGION III

Hon. Celso O. Baguio  
*RTC Br. 34, Gapan, Nueva Ecija*

###### REGION VI

Hon. Francisco N. Rodriguez  
*RTC Br. 63, La Carlota City, Negros Occidental*

###### REGION VIII

Hon. Eduardo O. Cablaog, Sr.  
*RTC Br. 4, Dolores, Eastern Samar*

###### REGION XII

Hon. Lacsaman M. Busran  
*RTC Br. 11, Malabang, Lanao del Sur*

##### METROPOLITAN TRIAL COURT

###### NATIONAL CAPITAL JUDICIAL REGION

Hon. Maria Gracia A. Cadiz-Casaclang  
*MeTC Br. 71, Pasig City*

##### MUNICIPAL TRIAL COURTS IN CITIES

###### REGION III

Hon. Norman V. Pamintuan  
*MTCC Br. 4, Olongapo City*

###### REGION IV

Hon. Manuel D. Noche  
*MTCC Br. 2, Cavite City*

###### REGION VI

Hon. Ma. Theresa Enriquez-Gaspar  
*MTCC Br. 8, Iloilo City*  
Hon. Rene B. Gonzales  
*MTCC Br. 7, Iloilo City*  
Hon. Evelyn P. Rondael  
*MTCC Br. 9, Iloilo City*  
Hon. Enrique Z. Trespeces  
*MTCC Br. 10, Iloilo City*

Hon. Rosario Abigail M. Dris-Villanueva  
*MTCC Br. 6, Iloilo City*

###### REGION X

Hon. Charina G. Navarro-Quijano  
*MTCC Br. 2, Surigao City*

##### MUNICIPAL TRIAL COURTS

###### REGION V

Hon. Evan D. Dizon  
*MTC Mercedes, Camarines Norte*  
Hon. Mel-Gerald N. Nieva  
*MTC Guinobatan, Albay*  
Hon. Ave A. Zurbito-Alba  
*MTC Daraga, Albay*

###### REGION VI

Hon. Milo M. Tupas  
*MTC Lambunao, Iloilo City*

###### REGION VIII

Hon. Jose B. Lagado  
*MTC Mahaplag, Leyte*

##### MUNICIPAL CIRCUIT TRIAL COURTS

###### REGION III

Hon. Jessie D. Dalit  
*MCTC Victoria-La Paz, Tarlac*

###### REGION V

Hon. Sarina Rosa G. Co  
*MCTC Ragay-Del Gallego, Camarines Sur*

###### REGION VI

Hon. Bienvenido P. Barrios, Jr.  
*MCTC Culasi-Sebaste-Pandan, Antique*  
Hon. Ernesto B. Estoya  
*MCTC Barbaza-Laua-An-Tibiao, Antique*  
Hon. Emilio Rodolfo Y. Legaspi III  
*MCTC Sibalom-San Remegio-Bellison, Antique*

###### REGION VIII

Hon. Altone M. Miralles  
*MCTC Villaba-Tabango, Leyte*

###### REGION XI

Hon. Clemente E. Boley  
*MCTC Malita-Sta. Maria-Don Marcelino, Davao del Sur*

##### SHARI'A CIRCUIT COURT

###### REGION IX

Hon. Musar Adil Amil  
*SCC Patikul, Sulu*

#### B. PROMOTION

##### REGIONAL TRIAL COURT

###### REGION I

Hon. Elpidio C. Cablayan  
*RTC Br. 58, Bucay, Abra*



## SPECIAL FOCUS PROGRAMS

### SEMINAR-WORKSHOP ON CEDAW, GENDER SENSITIVITY AND THE COURTS

PHILJA, in partnership with the Committee on Gender Responsiveness in the Judiciary (CGRJ), Sub-Committee on Training and Capacity-Building, Ateneo Human Rights Center (AHRC), and the United Nations Development Fund for Women (UNIFEM), conducted the *Seminar-Workshop on CEDAW, Gender Sensitivity and the Courts*, on October 5 to 6, 2006, at the Justices' Lounge, Centennial Building, Court of Appeals, Manila. This seminar-workshop was attended by a total of thirty-three (33) lawyers from the Supreme Court, Court of Appeals, Sandiganbayan and the Court of Tax Appeals.



*From left to right: Atty. Gilbert V. Sembrano, Atty. Rea A. Chiongson, Prof. Amparita S. Sta. Maria, Dr. Purificacion V. Quisumbing and Prof. Sedfrey M. Candelaria.*

### TRAINING PROGRAM FOR IPO AND DTI HEARING OFFICERS AND LEGAL ASSISTANTS

PHILJA, in collaboration with the Intellectual Property Office (IPO-Phil.), conducted the *Training Program for IPO and DTI Hearing Officers and Legal Assistants* last October 10 to 13, 2006, at IPPhil Building, Makati City. In attendance were forty-five (45) Intellectual Property Philippines and Department of Trade Hearing Officers and Legal Assistants.

In their respective messages, PHILJA Vice Chancellor Justo P. Torres, Jr. and IPO-Phil. Director General Adrian S. Cristobal, Jr.,

emphasized the importance of due process observance in resolving issues in relation to intellectual property system in the Philippines.

Moreover, lecturers gave interesting and informative presentations aimed at helping hearing officers and legal assistants in the effective performance of their functions.



*Participants of the Training Program for IPO and DTI Hearing Officers and Legal Assistants with Justice Hugo E. Gutierrez (ret.), lecturer on Decision Writing.*

### MULTI-SECTORAL SEMINAR-WORKSHOP ON AGRARIAN JUSTICE FOR DAVAO

PHILJA, in collaboration with the Agrarian Justice Foundation, Inc. (AJFI), the Department of Agrarian Reform (DAR), and the Department of Justice (DOJ), conducted the *Multi-Sectoral Seminar-Workshop on Agrarian Justice for Davao*, on October 17 to 19, 2006, at the Waterfront Insular Hotel, Lanang, Davao City. Selected first and second level judges and representatives from the Department of Justice, Public Attorney's Office, Department of Agrarian Reform, Philippine National Police, and those from NGOs, People's Organization (POs) and local government units (LGUs) comprised the fifty (50) participants of this seminar-workshop.

Among the objectives of the activity were: to increase sensitivity to the plight of the vulnerable sectors of the agrarian society; and to identify actual and potential conflicts between the agrarian justice system, and the civil and criminal justice systems, including conflicts of jurisdiction between the regular courts, and the Department of Agrarian Reform Adjudication Board (DARAB) and its regional and provincial arms: Regional Agrarian Reform Adjudicators (RARAD), and Provincial Agrarian Reform Adjudicators (PARAD).

### ADVANCED COURSE ON INTELLECTUAL PROPERTY LAW FOR COMMERCIAL COURT JUDGES

PHILJA, in collaboration with the National Judicial Institute Canada-Juris Project and Intellectual Property Philippines (IPPhil), conducted *the Advanced Course on Intellectual Property Law for Commercial Court Judges*, on November 14 to 17, 2006, at the Rockwell Club, Palm Grove Restaurant, Makati City. A total of twenty-six (26) commercial court judges participated in the course.

The objective of this course was to provide commercial court judges with an in-depth knowledge on intellectual property law which would develop into the skills necessary to resolve relevant issues in cases before Philippine courts. The course focused on the general discussions and practical exercises on the three (3) main areas of intellectual property law, namely: trademarks, patents and copyrights.



*Participants of the Advanced Course on Intellectual Property Law for Commercial Court Judges with Atty. Cesar L. Villanueva, Atty. Adrian S. Cristobal, Jr., Amb. Lilia R. Bautista and Atty. Andrew Michael S. Ong.*

### SEMINAR-WORKSHOP ON LAW AND ECONOMIC DEVELOPMENT ISSUES FOR THE PHILIPPINE JUDICIARY

The Academy, in partnership with the Ateneo Law School, Ateneo De Manila-Department of Economics, and in cooperation with the British Embassy conducted three (3) *Seminar-Workshops on Law and Economic Development Issues for the Philippine Judiciary* in the fourth quarter of the year.

The first *Seminar-Workshop on Law and Economic Development Issues for the Philippine Judiciary* was conducted on November 16 to 17, 2006, at the Training Center, Centennial Building, Supreme Court, Manila. This was attended by a total of twenty-four (24) Supreme Court lawyers.

Another seminar-workshop was conducted on November 21 to 22, 2006, at the CSB Hotel Manila. This was attended by a total of forty-three (43) Court of Appeals lawyers.

The third seminar-workshop was conducted on December 13 to 14, 2006, at the CSB Hotel Manila. This seminar-workshop was attended by forty-one (41) participants comprising Commercial Court judges and students of Law and Economics at the San Beda Graduate School of Law.



## JUDICIAL MOVES

### Supreme Court

Chief Justice Reynato S. Puno  
*appointed on December 6, 2006*  
Associate Justice Presbitero J. Velasco, Jr.  
*appointed on March 31, 2006*

### Court of Appeals

Associate Justice Marlene Gonzales-Sison  
*appointed on May 8, 2006*  
Associate Justice Romeo F. Barza  
*appointed on May 8, 2006*  
Associate Justice Agustin S. Dizon  
*appointed on May 8, 2006*  
Associate Justice Sixto C. Marella, Jr.  
*appointed on May 16, 2006*  
Associate Justice Antonio L. Villamor  
*appointed on May 19, 2006*  
Associate Justice Priscilla Baltazar-Padilla  
*appointed on May 30, 2006*  
Associate Justice Mario V. Lopez  
*appointed on May 31, 2006*  
Associate Justice Francisco P. Acosta  
*appointed on December 18, 2006*  
Associate Justice Stephen C. Cruz  
*appointed on December 18, 2006*  
Associate Justice Michael P. Elbinias  
*appointed on December 18, 2006*  
Associate Justice Jane Aurora C. Lantion  
*appointed on December 19, 2006*



## DEVELOPMENT PROGRAM FOR JUDICIAL PERSONNEL

### JUDICIAL REFORM ADVOCACY: ORIENTATION-WORKSHOP ON THE CODE OF CONDUCT FOR NCJR COURT PERSONNEL

PHILJA, in partnership with the Program Management Office (PMO), United States Agency for International Development (USAID), and the American Bar Association-Asia Law Initiative (ABA-Asia), conducted *The Judicial Reform Advocacy: Orientation-Workshop on the Code of Conduct for NCJR Court Personnel* in twelve (12) batches as listed below, at the Hyatt Regency Hotel in Pasay City.

Batch	Date	No. of Participants
1	October 25	168
2	October 26	183
3	November 6	193
4	November 7	178
5	November 13	191
6	November 14	190
7	November 20	200
8	November 21	190
9	November 27	194
10	November 28	198
11	December 4	193
12	December 5	200
<b>TOTAL</b>		<b>2,278</b>

This activity's main resource is the New Code of Conduct for Court Personnel. Workshops were conducted wherein the participants were divided into small focus groups to work on hypothetical questions applying the framework of the Code, in their resolutions. Group reports followed the workshop. The participants were also apprised of the Action Program for Judicial Reform (APJR) presented.



## CONVENTIONS

### PJA

PHILJA and the Philippine Judges Association (PJA), conducted the *Mid-Term Convention-Seminar of the Philippine Judges Association*, on October 12 to 14, 2006, at the Holiday Inn Hotel, Clarkfield, Angeles City, Pampanga with the theme: "**Liberty and Prosperity through a Strong Judiciary.**" This was attended by a total of five hundred fourteen (514) judges nationwide.

As the Keynote Speaker, Chief Justice Panganiban reiterated his vow to lead the judiciary in the four (4) **In's** – **I**ndependence, **I**ntegrity, **I**ndustry and **I**ntelligence; and talked about how to counteract the corrosive effects of **ACID** (**A**ccess to **J**ustice, **C**orruption, **I**ncompetence and **D**elay) in the delivery of justice, particularly to the poor and marginalized sectors of our society. During the Message and Dialogue sessions with the judges in the afternoon, Court Administrator Christopher O. Lock echoed the Chief Justice's call for the judges to maintain the independence of the judiciary and uphold the Rule of Law, which provides the venue for liberty and prosperity.



### PTJLI

The Academy and the Philippine Trial Judges League, Inc. (PTJLI) conducted the *National Convention-Seminar of the Philippine Trial Judges League, Inc.*, on November 8 to 10, 2006, at the Legend Hotel, Puerto Princesa City, Palawan. A total of two hundred fifty-four (254) participants attended this three-day convention-seminar.

Topics discussed in this convention-seminar were: Rules on Evidence, Juvenile Justice and Welfare Act (R.A. No. 9344), Pre-Trial and Modes of Discovery, Computation of Penalties and Fines, the Indeterminate Sentence Law, and Environmental Laws particularly the Fisheries Act.

## CLERAP

PHILJA and the Court Legal Researchers Association of the Philippines (CLERAP) conducted the *Convention and Seminar of the Court Legal Researchers Association of the Philippines*, on October 18 to 20, 2006 at the Bohol Tropics Resort, Tagbilaran City with the theme: **"Keeping Abreast with Judicial Reforms and Innovations."**

Three hundred sixteen (316) court legal researchers nationwide attended this three-day conference with the aim to learn and assimilate new skills, dimensions and trends relevant to legal research. The participants worked in group activities after the substantive lectures. The election of the new set of officers was conducted on the second day of the convention-seminar.

Below are the new set of CLERAP National and Regional Officers for 2006-2008:

Mr. Charlie A. Regilme- *National President*  
 Mr. Hilario S. Cordero-*Exec. Vice President*  
 Mr. Albert Macero -*Vice President for Luzon*  
 Ms. Genoveva R. Vasquez-*Vice Pres. for Visayas*  
 Mr. Benjamin Cortes – *Vice Pres. for Mindanao*  
 Ms. Merlie N. Yuson – *General Secretary*  
 Ms. Rosenia G. Jover – *Asst. Secretary*  
 Ms. Zenaida E. Calaor – *Treasurer*  
 Ms. Jennifer D. Andino – *Auditor*  
 Ms. Marilyn Leander – *Asst. Auditor*  
 Mr. Ildelfonso Pajuelas –*Business Manager*  
 Mr. Reynaldo Abunador – *Asst. Bus. Manager*  
 Mr. Ed Baltazar – *Public Information Officer*  
 Ms. Cielo Pardo – *NCJR Director*  
 Ms. Richelmina A. Velasco – *Reg. I Director*  
 Mr. Joel Palpallatoc – *Reg. II Director*  
 Mr. Wilson C. Mangabat – *Reg. III Director*  
 Mr. Raul Manuel Blas – *Reg. IV Director*  
 Mr. Aristotle V. Ramos – *Reg. V Director*  
 Mr. Ephraim B. Gellada – *Reg. VI Director*  
 Mr. Samuel Nebrida, Jr. – *Reg. VIII Director*  
 Ms. Hubairah H. Agpangan – *Reg. IX Director*  
 Mr. Edgar Casalem – *Reg. XI Director*  
 Ms. Jurata D. Igasan – *ARMM Director*



## ON MEDIATION

### WORKSHOP ON THE COMMUNICATION PROGRAM FOR COURT-ANNEXED MEDIATION

PHILJA and the Philippine Mediation Center, in cooperation with Asian Institute of Journalism and Communication (AIJC), United States Agency for International Development (USAID), and The Asia Foundation (TAF), conducted the *Workshop on the Communication Program for Court-Annexed Mediation*, on October 23, 2006, at the Pan Pacific Hotel Manila. The sixteen (16) attendees comprise the Alternative Dispute Resolution (ADR) and Design Management Committee (DMC) members, including representatives from TAF and AIJC.

Topics discussed were as follows: Overview of the communication program; Project deliverables and process involved in the formulation of the information education and communication (IEC) materials for mediation; and Presentation of mediation articles developed from successfully mediated cases from PMC Units in Quezon City, Manila, Cebu, Davao, Pampanga and Cagayan de Oro.

### ORIENTATION CONFERENCE WITH STAKEHOLDERS ON COURT-ANNEXED MEDIATION

The *Orientation Conference with Stakeholders on Court-Annexed Mediation (Batangas Mediation Program)* was conducted on October 27, 2006, at the Days Hotel, Batangas City. A total of one hundred twenty (120) participants attended the orientation conference.

The *Orientation Conference with Stakeholders on Court-Annexed Mediation (Bulacan Mediation Program)* was conducted on November 17, 2006, at the Barcic International Center, Malolos, Bulacan City. A total of one hundred eight (108) participants attended the said orientation conference.

Topics discussed were: Overview and Historical Background of Court-Annexed Mediation in the Philippines; and Alternative Dispute Resolution, PHILJA, and Expectations and Impact on the Philippine Judicial System.

### NATIONAL CONFERENCE ON COURT-ANNEXED/REFERRED ADR MECHANISMS

The Philippine Judicial Academy, and the Philippine Mediation Center (PMC) a component unit of the Supreme Court designated for Court-Referred, Court-Related Mediation Cases and other Alternative Dispute Resolution, in coordination with the United States Agency for International Development (USAID) and The Asia Foundation (TAF), conducted the *National Conference on Court-Annexed/Referred Alternative Dispute Resolution Mechanisms*, on November 27 to 28, 2006 at the Century Park Hotel, P. Ocampo Sr., Manila.

The conference's theme was "*Ayusin Ang Gusot, Habaan ang Pasensya*" and aimed at highlighting the significant role and accomplishments of Court-Annexed/Referred ADR Mechanisms in the resolution mechanisms consistent with the vision of the judiciary to broaden access to justice. The conference included a breakout session, which provided a venue for sharing practical experiences in mediation towards developing the existing Implementing Rules and Regulations on Trial Court Annexed Mediation and PMC Units, and in the promotion and institutionalization of Court-Annexed Mediation.

There were a total of four hundred twenty-four (424) participants including PMC accredited mediators all over the country, and other stakeholders of ADR mechanisms. Also on this occasion, the first batch of the accredited Appellate Court Mediators for the Court of Appeals took their oath before the Chief Justice.



## ON PHILJA

### LAUNCHING OF THE CAPACITY-BUILDING ON LAW AND ECONOMIC DEVELOPMENT ISSUES FOR THE PHILIPPINE JUDICIARY CURRICULUM AND TRAINING MANUAL

PHILJA, in partnership with the Ateneo Law School, Ateneo de Manila-Department of Economics, and in cooperation with the British Embassy, conducted the *Launching of the Capacity-Building on Law and Economic Development Issues for the Philippine Judiciary Curriculum and Training Manual* last October 5, 2006, at the 7<sup>th</sup> Floor, Penthouse, New Building, Supreme Court, Manila.

Her Majesty's Ambassador Mr. Peter Beckingham of the British Embassy, gave a brief Message of Appreciation after the ceremonial turn-over and launching of the Manual and Curriculum. Justice Reynato S. Puno received the Manual and Curriculum in behalf of the Supreme Court.



*Her Majesty's Ambassador Mr. Peter Beckingham of the British Embassy and Senior Supreme Court Justice Reynato S. Puno.*

### UNVEILING OF THE FOUNDATION STONE MARKER OF THE PHILJA DEVELOPMENT CENTER

The Philippine Judicial Academy in cooperation with the Project Management Office (PMO) of the Supreme Court, held the momentous "Unveiling of the Foundation Stone Marker of the PHILJA Development Center," on November 30, 2006, at the PHILJA Development Center (PDC), Tagaytay City.

This half-day program was graced with the presence of Supreme Court officials, PHILJA officials, professors and staff, the Ridge Sports and Country Club Corporation stockholders, and Supreme Court's and PHILJA's Development partners, and officials of the local government of Tagaytay City. The distinguished speakers on the project's history and development include Supreme Court Associate Justice Antonio T. Carpio, PHILJA Chancellor Ameurfina A. Melencio Herrera, Ambassador Ryuichiro Yamazaki of Japan and Former Government Corporate Counsel Manuel M. Lazaro. The ceremonial unveiling and signing of the Foundation Stone Marker was led by Chief Justice Artemio V. Panganiban with Ambassador Yamazaki and PHILJA Chancellor Herrera. In the Inspirational Message of the Chief Justice, he conveyed that "PHILJA is the first and only training school for the Philippine judiciary. As envisioned, the renovation and construction of the PHILJA Development Center will make its academic program and physical facilities comparable with those of other training institutions. In particular, the expansion program will transform it into a national and, I hope, an ASEAN regional hub for (1) continuing legal and judicial education, (2) pre-judicature training, (3) judicial career enhancement, and (4) various programs in specialized areas of the law."



**From left to right:** Chief Justice Artemio V. Panganiban, Mr. Ryuichiro Yamazaki, Ambassador of Japan to the Philippines, and PHILJA Chancellor Ameurfina A. Melencio Herrera during the Unveiling of the Foundation Stone Marker.

### PHILJA CORPORATE PLANNING

The *PHILJA Corporate Planning: For a Performing, Efficient and Effective Judicial Academy*, was conducted on December 8, 2006, at the Training Room, Centennial Building, Supreme Court, Manila.

The resource person who facilitated the corporate planning process was Dr. Jacinto C. Gavino, Jr., Fr. James F. Donelan, SJ Professor of Business Ethics and one of the core faculty in the Asian Institute of Management (AIM).

Part of the planning was the Presentation of Strategic Areas for Change. Chancellor Ameurfina A. Melencio Herrera discussed her assessment of the Academy in her presentation Challenge of Introducing Organizational Change. Other topics discussed were Human Resource Empowerment, The Need for Systems Planning, and Towards a Stable and Proactive Finance. At the Closing Ceremonies, heads of offices and staff representatives gave brief messages of their Affirmation and Commitment to the Academy.

Vice Chancellor Justice Justo P. Torres, Jr., in his Closing Remarks, highlighted that despite the challenges faced by PHILJA, what keeps us together is our faith in each other, that we belong to the same PHILJA Family.



*Participants to the PHILJA Corporate Planning with Professor Jacinto C. Gavino, Jr.*



## CONSTITUTIONAL LAW

**Section 4(b) of E.O. No. 41, exempting all PCGG members or staff from testifying in any judicial, legislative or administrative proceeding, is repealed by the 1987 Constitution.**

Notably, the 1987 Constitution recognizes the power of investigation, not just of Congress, but also of **“any of its committee.”** This is significant because it constitutes a **direct conferral of investigatory power** upon the committees and it means that the mechanisms which the Houses can take in order to effectively perform its investigative function are also available to the committees.

It can be said that the Congress' power of inquiry has gained more solid existence and expansive construal. The Court's high regard to such power is rendered more evident in *Senate v. Ermita* (G.R. No. 169777, April 20, 2006), where it categorically ruled that **“the power of inquiry is broad enough to cover officials of the executive branch.”** Verily, the Court reinforced the doctrine in *Arnault* that **“the operation of government, being a legitimate subject for legislation, is a proper subject for investigation”** and that **“the power of inquiry is co-extensive with the power to legislate.”**

Considering these jurisprudential instructions, we find Section 4(b) directly repugnant with Article VI, Section 21. Section 4(b) **exempts the PCGG members and staff from the Congress' power of inquiry.** This cannot be countenanced. Nowhere in the Constitution is any provision granting such exemption. The Congress' power of inquiry, being broad, encompasses everything that concerns the administration of existing laws as well as proposed or possibly needed statutes. It even extends **“to government agencies created by Congress and officers whose positions are within the power of Congress to regulate or even abolish.”** PCGG belongs to this class.

Certainly, a mere provision of law cannot pose a limitation to the broad power of Congress, in the absence of any constitutional basis.

x x x

Section 4(b), being in the nature of an immunity, **is inconsistent with the principle of public accountability.** It places the PCGG members and staff beyond the reach of courts, Congress and other administrative bodies. **Instead of encouraging public accountability, the same provision only institutionalizes irresponsibility and non-accountability.** In *Presidential Commission on Good Government v. Peña* (G.R. No. L-77663, April 12, 1988), Justice Florentino P. Feliciano characterized as

“obiter” the portion of the majority opinion barring, on the basis of Sections 4(a) and (b) of E.O. No. 1, a civil case for damages filed against the PCGG and its Commissioners. x x x

x x x

Corollarily, Section 4(b) also runs counter to the following constitutional provisions ensuring the people's access to information:

### Article II, Section 28

Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

### Article III, Section 7

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

x x x

A statute may be declared unconstitutional because **it is not within the legislative power to enact;** or it creates or establishes methods or forms that infringe constitutional principles; or its purpose or effect **violates the Constitution or its basic principles.** As shown in the above discussion, Section 4(b) is inconsistent with **Article VI, Section 21** (Congress' power of inquiry), **Article XI, Section 1** (principle of public accountability), **Article II, Section 28** (policy of disclosure) and **Article III, Section 7** (right to public information).

Significantly, Article XVIII, Section 3 of the Constitution provides:


All existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances **not inconsistent** with this Constitution shall remain operative until amended, **repealed,** or revoked.

The clear import of this provision is that all existing laws, executive orders, proclamations, letters of instructions and other executive issuances inconsistent or repugnant to the Constitution are repealed.

(Continued on NEXT page)

## CONSTITUTIONAL LAW (continued)

(Sandoval-Gutierrez, J., In the matter of the Petition for Issuance of Writ of Habeas Corpus of Camilo L. Sabio v. Honorable Senator Richard Gordon, et. al., GR. No. 174340; PCGG, et. al., v. Richard Gordon et. al., G.R. No. 174318; Philcomsat Holdings Corporations, et. al., v. Senate Committee on Government Corporations and Public Enterprises, et. al., G.R. No. 174177; October 17, 2006)



**Senate Committee's inquiry does not violate the right to privacy and right against self-incrimination of the directors and officers of Philcomsat Holdings Corporation.**

In evaluating a claim for violation of the right to privacy, a court must determine whether a person has exhibited a reasonable expectation of privacy and, if so, whether that expectation has been violated by unreasonable government intrusion. Applying this determination to these cases, the important inquiries are: *first*, did the directors and officers of Philcomsat Holdings Corporation exhibit a reasonable expectation of privacy?; and *second*, did the government violate such expectation?

The answers are in the negative. Petitioners were invited in the Senate's public hearing to deliberate on Senate Resolution No. 455, particularly **"on the anomalous losses incurred by the Philippine Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (PHILCOMSAT), and Philcomsat Holdings Corporations (PHC) due to the alleged improprieties in the operations by their respective board of directors."** Obviously, the inquiry focuses on petitioners' acts committed in the discharge of their duties as officers and directors of the said corporations, particularly Philcomsat Holdings Corporation. **Consequently, they have no reasonable expectation of privacy over matters involving their offices in a corporation where the government has interest. Certainly, such matters are of public concern and over which the people have the right to information.**


This goes to show that the right to privacy is not absolute where there is an **overriding state interest.** x x x

x x x

Anent the right against self-incrimination, it must be emphasized that this right maybe invoked by the said directors and officers of Philcomsat Holdings Corporation **only when the**

**incriminating question is being asked, since they have no way of knowing in advance the nature or effect of the questions to be asked of them.** That this right may **possibly** be violated or abused is no ground for denying respondent Senate Committees their power of inquiry. The consolation is that when this power is abused, such issue may be presented before the courts. At this juncture, what is important is that respondent Senate Committees have sufficient *Rules* to guide them when the right against self-incrimination is invoked. x x x

(Sandoval-Gutierrez, J., In the matter of the Petition for Issuance of Writ of Habeas Corpus of Camilo L. Sabio v. Honorable Senator Richard Gordon, et. al., GR. No. 174340; PCGG, et. al., v. Richard Gordon et. al., G.R. No. 174318; Philcomsat Holdings Corporations, et. al., v. Senate Committee on Government Corporations and Public Enterprises, et. al., G.R. No. 174177; October 17, 2006)



**Essential elements of "Amendment to the Constitution directly proposed by the people through initiative upon a petition."**

Section 2, Article XVII of the Constitution is the **governing** constitutional provision that allows a people's initiative to propose amendments to the Constitution. This section states:

Section 2. Amendments to this Constitution may likewise be **directly proposed by the people through initiative upon a petition** of at least twelve *per centum* of the total number of registered voters of which every legislative district must be represented by at least three *per centum* of the registered voters therein. x x x (Emphasis supplied)

x x x

Clearly, the framers of the Constitution intended that the **"draft of the proposed constitutional amendment"** should be **"ready and shown"** to the people **"before"** they sign such proposal. The framers plainly stated that **"before they sign there is already a draft shown to them."** The framers also **"envisioned"** that the people should sign **on the proposal itself** because the proponents must **"prepare that proposal and pass it around for signature."**

The essence of amendments **"directly proposed by the people through initiative upon petition"** is that **the entire proposal on its face is a petition by the people.** This means two essential elements must be present. *First*, the people must author and

## CONSTITUTIONAL LAW (continued)

thus sign the entire proposal. No agent or representative can sign on their behalf. *Second*, as an initiative upon a petition, the petition must be embodied in a petition.

These essential elements are present only if the full text of the proposed amendments is **first shown** to the people who express their assent by signing such complete proposal in a petition. **Thus, an amendment is "directly proposed by the people through initiative upon a petition" only if the people sign on a petition that contains the full text of the proposed amendments.**

The full text of the proposed amendments may either be written on the face of the petition, or attached to it. If so attached, the petition must state the fact of such attachment. This is an assurance that every one of the several millions of signatories to the petition had seen the full text of the proposed amendments before signing. Otherwise, it is physically impossible, given the time constraint, to prove that every one of the millions of signatories had seen the full text of the proposed amendments before signing.

x x x

Moreover, "an initiative signer must be informed at the time of signing of the **nature and effect** of that which is proposed" and failure to do so is "**deceptive and misleading**" which renders the initiative void.

(Carpio, J., Raul L. Lambino, et. al., v. The Commission on Elections; Mar-Len Abigail Binay, et. al., v. Commission on Elections, et. al., G.R. Nos. 174153 and 174299, October 25, 2006)

### Rule on Indigent Litigants.

Recapitulating the rules on indigent litigants, therefore, if the applicant for exemption meets the salary and property requirements under Section 19 of Rule 141, then the grant of application is mandatory. On the other hand, when the application does not satisfy one or both requirements, then the application should not be denied outright; instead, the court should apply the "indigency test" under Section 21 of Rule 3 and use its sound discretion in determining the merits of the prayer for exemption.

(Velasco, Jr., J., Spouses Antonio F. Algura and Lorencita S.J. Algura v. The Local Government Unit of the City of Naga, Atty. Manuel Teoxon, Engr. Leon Palmiano, Nathan Sergio and Benjamin Navarro, Sr., G.R. No. 150135, October 30, 2006)

### *From the Chancellor's Desk*

(Continued from page 1)

The assistance of ABA-Asia and the Program Management Office (PMO) enabled us to hold the twelve (12) Code of Conduct orientation seminar-workshops for 2,278 court personnel of the NCJR. Evaluation reports on the program have consistently been positive in terms of profitability and educational experience. In 2007, we are hopeful that the program will be able to cover more judicial personnel as far as resources will allow.

We encourage our judges to avail of our e-Learning program with the Modules on Remedial Law and Civil Law currently offered online. This interactive online learning tool keeps the judges updated on latest jurisprudence while serving as a venue for clarification of related issues, without their having to leave the comfort or convenience of their home or work station.

Continuing legal education has likewise been extended to court attorneys in seminar-workshops such as that on Law and Economic Development issues for the Philippine Judiciary conducted for both judges and research attorneys of appellate courts. At the launch of the Reference Manual on Law and Economic Development Issues for the Judiciary, then Senior Associate Justice Reynato S. Puno remarked that knowledge of international laws will affect court rulings which should hopefully propel our economic growth and make the Philippines competitive in the world. The message was affirmed in the speeches of topnotch lecturers headed by former Supreme Court Justice Florentino P. Feliciano who is also Chairman of the Appellate Body of the World Trade Organization.

We regret the negative observations received indirectly from a few participants regarding some programs. However, we try to balance these against the overall high profitability ratings given by most of them for most of the activities. As the year ends, we look back on our successes as we learn from our shortcomings and face our problems. We remain hopeful that the coming year will find us recharged, confronting challenges, increasingly inspired, performing and effective, to come closer to our vision of a judiciary performing competently, impartially, ethically, and with accountability.

Our warmest Handclasps to All!

## CRIMINAL LAW

Republic Act No. 9346 unequivocally bars the application of the death penalty, as well as expressly repeals all such statutory provisions requiring the application of death penalty, such effect necessarily extends to its relevance to the graduated scale of penalties under Article 71.

In truth, there is no material difference between "imposition" and "application," for both terms embody the operation in law of the death penalty. Since Article 71 denominates "death" as an element in the graduated scale of penalties, there is no question that the operation of Article 71 involves the actual **application** of the death penalty as a means of determining the extent which a person's liberty is to be deprived. Since Rep. Act No. 9346 unequivocally bars the application of the death penalty, as well as expressly repeals all such statutory provisions requiring the application of death penalty, such effect necessarily extends to its relevance to the graduated scale of penalties under Article 71. We cannot find basis to conclude that Rep. Act No. 9346 intended to retain the operative effects of the death penalty in the graduation of the other penalties in our penal laws.

(Tinga, J., *People of the Philippines v. Alfredo Bon*, G.R. No. 166401, October 30, 2006)

**The debarring of the death penalty through Republic Act No. 9346 did not correspondingly declassify those crimes previously catalogued as "heinous."**

It should be understood that the debarring of the death penalty through Rep. Act No. 9346 did not correspondingly declassify those crimes previously catalogued as "heinous." The amendatory effects of Rep. Act No. 9346 extend only to the application of the death penalty but not to the definition or classification of crimes. True, the penalties for heinous crimes have been downgraded under the aegis of the new law. Still, what remains extant is the recognition by law that such crimes, by their abhorrent nature, constitute a special category by themselves. Accordingly, Rep. Act No. 9346 does not serve as basis for the reduction of civil indemnity and other damages that adhere to heinous crimes.

(Tinga, J., *People of the Philippines v. Alfredo Bon*, G.R. No. 166401, October 30, 2006)

## REMEDIAL LAW

**Criminal liability for estafa already committed is not affected by the subsequent novation of contract.**

What is more nettlesome is respondent judge's holding that there was novation or rescission of contract that prevented the onset of criminal liability for estafa. Jurisprudence is replete with cases that the criminal liability for estafa already committed is not affected by the subsequent novation of the contract, for it is a public offense which must be prosecuted and punished by the State on its own motion even if complete reparation had been made for the damage suffered by the offended party. Although totally inapplicable to the matter of criminal liability, the claim of novation by reason of the partial return of the money defrauded was swallowed by the respondent judge hook, line, and sinker to absolve Ordiz from liability.

(Nachura, J., *Augusto C. Caesar v. Judge Romeo M. Gomez, etc.*, A.M. No. RTJ-07-2059, August 10, 2007)

**Sworn statements are almost incomplete and often inaccurate and are generally inferior to the testimony of a witness in open court.**

The general rule is that inconsistencies and discrepancies between the testimony of a witness in contrast with what he stated in an affidavit do not necessarily discredit him. Affidavits given to police and *barangay* officers are made *ex parte* and often incomplete or incorrect for lack or absence of sufficient inquiries by the investigating officer. It is of judicial knowledge that sworn statements are almost incomplete and often inaccurate and are generally inferior to the testimony of a witness in open court.

Inconsistencies or discrepancies in the testimony of the witness relative to minor or peripheral matters and not to the significant facts vital to the guilt or innocence of the accused from the crime charged or the elements of such crime are not grounds for the acquittal of the accused.

(Callejo, Sr., J., *Eduardo Leyson, et. al., v. Pedro Lawa, et. al.*, G.R. No. 150756, October 11, 2006)

REMEDIAL LAW (continued)

**Mandamus is available only to compel the doing of an act specifically enjoined by law as a duty.**

**Mandamus will not generally lie from one branch of government to a coordinate branch, for the obvious reason that neither is inferior to the other.**

Regrettably, however, the plain, speedy and adequate remedy herein sought by petitioners, *i.e.*, a writ of mandamus commanding the respondents to require PUVs to use CNG [Compressed Natural Gas], is unavailing. Mandamus is available only to compel the doing of an act specifically enjoined by law as a duty. Here, there is no law that mandates the respondents LTFRB and the DOTC to order owners of motor vehicles to use CNG. At most the LTFRB has been tasked by E.O. No. 290 in par. 4.5 (ii), Section 4 "to grant preferential and exclusive Certificates of Public Convenience (CPC) or franchises to operators of NGVs based on the results of the DOTC surveys."

Further, mandamus will not generally lie from one branch of government to a coordinate branch, for the obvious reason that neither is inferior to the other. The need for future changes in both legislation and its implementation cannot be preempted by orders from this Court, especially when what is prayed for is procedurally infirm. Besides, comity with and courtesy to a coequal branch dictate that we give sufficient time and leeway for the coequal branches to address by themselves the environmental problems raised in this petition.

x x x

It is the firm belief of this Court that in this case, it is timely to re-affirm the premium we have placed on the protection of the environment in the landmark case of *Oposa*. Yet, as serious as the statistics are on air pollution, with the present fuels deemed toxic as they are to the environment, as fatal as these pollutants are to the health of the citizens, and urgently requiring resort to drastic measures to reduce air pollutants emitted by motor vehicles, we must admit in particular that petitioners are unable to pinpoint the law that imposes an indubitable legal duty on respondents that will justify a grant of the writ of mandamus compelling the use of CNG for public utility vehicles. It appears to us that more properly, the legislature should provide first the specific statutory remedy to the complex environmental problems bared by herein petitioners before any judicial recourse by mandamus is taken.

(Quisumbing, *J.*, Hllarion M. Henares, Jr., et al., *v.* Land Transportation Franchising and Regulatory Board, G.R. No. 158290, October 23, 2006)

**Demurrer to evidence, when proper.**

Demurrer to evidence authorizes a judgment on the merits of the case without the defendant having to submit evidence on his part as he would ordinarily have to do, if it is shown by plaintiff's evidence that the latter is not entitled to the relief sought. The demurrer, therefore, is an aid or instrument for the expeditious termination of an action, similar to a motion to dismiss, which a court or tribunal may either grant or deny.

A demurrer to evidence may be issued when, upon the facts and the law, the plaintiff has shown no right to relief. Where the plaintiff's evidence together with such inferences and conclusions as may reasonably be drawn therefrom does not warrant recovery against the defendant, a demurrer to evidence should be sustained. A demurrer to evidence is likewise sustainable when, admitting every proven fact favorable to the plaintiff and indulging in his favor all conclusions fairly and reasonably inferable therefrom, the plaintiff has failed to make out one or more of the material elements of his case, or when there is no evidence to support an allegation necessary to his claim. It should be sustained where the plaintiff's evidence is *prima facie* insufficient for a recovery.

(Callejo, Sr. *J.*, The Heirs of Emilio Santioque, represented by Filemon W. Santioque *v.* The Heirs of Emilio Calma, et. al., G.R. No. 160832, October 27, 2006)

**Guidelines in reviewing rape cases.**

In reviewing rape cases, the Court is guided by these principles: *First*, the prosecution has to show the guilt of the accused by proof beyond reasonable doubt or that degree of proof that, to an unprejudiced mind, produces conviction. *Second*, unless there are special reasons, the findings of trial courts, especially regarding the credibility of witnesses, are entitled to great respect and will not be disturbed on appeal. *Third*, the disposition of rape cases are governed by the following guidelines: (1) the accusation for rape can be made with facility; it is difficult to prove but more difficult for the person accused, though innocent, to disprove; (2) in view of the intrinsic nature of the crime of rape where only two persons are usually involved, the testimony of the complainant must be scrutinized with extreme caution, and (3) the evidence for the prosecution must stand or fall on its own merits and cannot draw strength from the weakness of the evidence of the defense.

(Chico-Nazario, *J.*, People of the Philippines *v.* Henry Bidoc y Roque, G.R. No. 169430, October 31, 2006)

## LABOR LAW

### Loss of Trust and Confidence as a ground to dismiss an employee; requisites.

Now, to validly dismiss an employee on the ground of loss of trust and confidence, the following requisites must be established: (a) the loss of confidence must not be simulated; (b) it should not be used as a subterfuge for causes which are illegal, improper or unjustified; (c) it may not be arbitrarily asserted in the face of overwhelming evidence to the contrary; (d) it must be genuine, not a mere afterthought, to justify earlier action taken in bad faith; and (e) the employee involved holds a position of trust and confidence. Proof beyond reasonable doubt is not required, but substantial evidence is vital and the burden rests on the employer to establish such evidence. Any other rule would place the employee absolutely at the mercy of the employer. Moreover, the term *trust and confidence* is restricted to managerial employees only.

(Quisumbing, *J.*, Jaime H. Ballao *v.* Court of Appeals, et. al., G.R. No. 162342, October 11, 2006)

**A foreign judgment or order against a person is merely presumptive evidence of a right as between the parties. It may be repelled, among others, by want of jurisdiction of the issuing authority or by want of notice to the party against whom it is enforced. The party attacking a foreign judgment has the burden of overcoming the presumption of its validity.**

Generally, in the absence of a special contract, no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country; however, under the rules of comity, utility and convenience, nations have established a usage among civilized states by which final judgments of foreign courts of competent jurisdiction are reciprocally respected and rendered efficacious under certain conditions that may vary in different countries. Certainly, the Philippine legal system has long ago accepted into its jurisprudence and procedural rules the viability of an action for enforcement of foreign judgment, as well as the requisites for such valid enforcement, as derived from internationally accepted doctrines.

The conditions for the recognition and enforcement of a foreign judgment in our legal system are contained in Section 48, Rule 39 of the 1997 Rules of Civil Procedure, as amended thus:

Sec. 48. Effect of foreign judgments. – The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order is as follows:

- (a) In case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and
- (b) In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title;

In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

Under the above Rule, a foreign judgment or order against a person is merely presumptive evidence of a right as between the parties. It may be repelled, among others, by want of jurisdiction of the issuing authority or by want of notice to the party against whom it is enforced. The party attacking a foreign judgment has the burden of overcoming the presumption of its validity.

(Sandoval-Gutierrez, *J.*, St. Aviation Services Co., Pte., Ltd., *v.* Grand International Airways, Inc., G.R. No. 140288, October, 23, 2006)

## LEGAL ETHICS

### Dismissal or withdrawal of charges and the desistance of witnesses do not automatically result in the dismissal of an administrative case.

At the outset, the Court stresses that the dismissal or withdrawal of charges and the desistance of witnesses do not automatically result in the dismissal of an administrative case. Affidavits of desistance filed by complainants are looked upon with disfavor; even the withdrawal of the complaint does not have the legal effect of exonerating the respondent from any administrative disciplinary action. It does not operate to divest this Court of jurisdiction to determine the truth behind the matter stated in the complaint, as our disciplinary authority cannot be dependent on, or frustrated by, private arrangements between parties; otherwise the prompt and fair administration of justice, as well as the discipline of court personnel, would be undermined. However, in such cases, the charge against the respondent judge should still be proven by substantial evidence, which in this case was not established.

(Callejo, Sr., *J.*, Spouses Trefil and Lina A. Umale *v.* Judge Nicolas V. Fadul, Jr., Municipal Trial Court, Pagsanjan, Laguna, A.M. No. MTJ-06-1660, November 30, 2006)

**SUPREME COURT**

SPECIAL ORDER NO. 443, dated December 13, 2006

**ADJUDICATION OF CASES**

**Reorganization of the Three Divisions of the Court and Designation of the Chairpersons and Members thereof**

***First Division******Chairperson:***

Chief Justice Reynato S. Puno

***Working Chair:***

Justice Angelina Sandoval-Gutierrez

***Members:***

Justice Renato C. Corona

Justice Adolfo S. Azcuna

Justice Cancio C. Garcia

***Second Division******Chairperson:***

Justice Leonardo A. Quisumbing

***Members:***

Justice Antonio T. Carpio

Justice Conchita Carpio Morales

Justice Dante O. Tinga

Justice Presbitero J. Velasco, Jr.

***Third Division******Chairperson:***

Justice Consuelo Ynares-Santiago

***Members:***

Justice Ma. Alicia Austria-Martinez

Justice Romeo J. Callejo, Sr.

Justice Minita V. Chico-Nazario

**OFFICE OF THE COURT ADMINISTRATOR**

OCA CIRCULAR NO. 146-2006

**TO: ALL PERSONNEL OF THE JUDICIARY**

**SUBJECT: PROHIBITION AGAINST DUAL APPOINTMENTS AND DOUBLE COMPENSATION OF A GOVERNMENT EMPLOYEE**

Quoted hereunder for your information and guidance is the resolution of the Third Division of this Court dated April 26, 2006 in A.M. No. 06-3-89-MTC Re: Query on Prohibition Against Dual Appointments and Double Compensation of a Government Employee.

“The Court *NOTES* the Report dated March 7, 2006 of the Office of the Court Administrator on the letter of Rogelio V. Ligsay, Clerk of Court, Municipal Trial Court, Buguey, Cagayan, inquiring whether the position of Chairman of the People’s Law Enforcement Board (PLEB) of Buguey, Cagayan, which he presently holds, falls within the prohibition against dual appointments and double compensation of a government employee, finding that:

Clerk of Court Rogelio V. Ligsay’s acceptance of his designation as one of the members in the PLEB is contrary to jurisprudence x x x. Such membership in the PLEB likewise falls under the prohibitions enumerated under Sec. 5, Canon III of the Code of Conduct for Court Personnel (A.M. No. 03-06-13-SC promulgated on April 27, 2004).

Although membership in the PLEB is a civic duty, PLEB members may be paid per diem as may be determined by the city or municipal council from city or municipal funds. The Board has jurisdiction to hear and decide citizen’s complaints or cases filed before it against erring officers and members of PNP (R.A. No. 6975, January 21, 1991).

With the nature of its creation, source of compensation/allowance and the duties attached to the position, it is clear that such membership falls under the classification of “outside employment” contemplated under Sec. 5, paragraphs (c) and (e) of the Code as above quoted.

As recommended in the said report, the Court Resolves:

- (a) to **NOTE** the letter dated January 7, 2006 of Rogelio V. Ligsay, Clerk of Court, Municipal Trial Court, Buguey, Cagayan; and
- (b) to **DIRECT** Clerk of Court Ligsay, in view of existing jurisprudence and the provisions under Sec. 5, paragraphs (c) and (e) of the Code of Conduct for Court Personnel, to avoid accepting other positions or designations detrimental to his functions and to immediately desist from performing the functions of a member of the People's Law Enforcement Board (PLEB)."

For strict compliance.

October 27, 2006.

(Sgd.) CHRISTOPHER O. LOCK  
Court Administrator

**OCA CIRCULAR NO. 149-2006**

**TO : ALL JUSTICES OF THE COURT OF APPEALS, SANDIGANBAYAN AND COURT OF TAX APPEALS, JUDGES OF THE LOWER COURTS, LAWYERS IN THE GOVERNMENT SERVICE, INTEGRATED BAR OF THE PHILIPPINES AND OFFICE OF THE SOLICITOR GENERAL**

**SUBJECT: AMENDMENT OF RULE 139-B**

The Court *En Banc* in its resolution dated September 12, 2006 in B.M. 1645, Resolved to AMEND the second paragraph of Section 1, Rule 139-B of the Rules of Court, clarified by Circular No. 3-89 dated February 6, 1989, as follows:

x x x

"The IBP shall forward to the Supreme Court for appropriate disposition all "complaints for disbarment, suspension and discipline filed against incumbent Justices of the Court of Appeals, Sandiganbayan, Court of Tax appeals and judges of lower courts, whether or not they are charged singly or jointly with other respondents, and whether or not such complaint deals with acts unrelated to the discharge of their official functions. The same procedure shall be observed with respect to complaints filed against retired justices and judges. All similar complaints against

lawyers still in the government service, whether filed directly with the IBP or transmitted to the IBP by the Office of the Solicitor General, shall first be referred to the Court for appropriate action.

x x x

The amendment took effect on October 2, 2006 following its publication in the Manila Bulletin on September 15, 2006."

October 31, 2006.

(Sgd.) CHRISTOPHER O. LOCK  
Court Administrator

**OCA CIRCULAR NO. 156-2006**

**TO : ALL CLERKS OF COURT OF THE REGIONAL TRIAL COURTS**

**SUBJECT: AUTHORITY TO NOTARIZE DOCUMENTS**

For your information and guidance, the Court *En Banc* had issued a resolution dated August 15, 2006 in A.M. No. 02-8-13-SC (Re: 2004 Rules on Notarial Practice), which Resolved among others, to *wit*:

x x x

- (f) AUTHORIZES the Clerk of Court of the Regional Trial Courts to notarize not only documents relating to the exercise their official functions but also private documents, subject to the following conditions: (i) all notarial fees charged in accordance with Section 7(o) of the Rule 141 of the Rules of Court, and, with respect to private documents, in accordance with the notarial fee that the Supreme Court may prescribe in compliance with Section 1, Rule V of the 2004 Rules on Notarial Practice, shall be for the account of the Judiciary and (ii) they certify in the notarized documents that there are no notaries public within the territorial jurisdiction of the Regional Trial Court;

x x x

November 16, 2006.

(Sgd.) CHRISTOPHER O. LOCK  
Court Administrator



## OCA CIRCULAR NO. 157-2006

**TO: ALL JUDGES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT: 2004 RULES ON NOTARIAL PRACTICE**

The Court *En Banc*, in its Resolution dated August 15, 2006 in A.M. No. 02-8-13-SC Resolved to **APPROVE** the Proposed Guidelines in the Implementation of the Provisions of the Memorandum of Agreement between the Office of the Court Administrator and the Office of the Solicitor General relative to printing and distribution of Notarial Books, to *wit*:

1. Notaries public who render legal and notarial services within the National Capital Judicial Region shall secure their notarial registers from the Property Division, Office of the Administrative Services of the Office of the Court Administrator (OCA).
2. Notaries public in other judicial regions shall secure their notarial registers from the Office of the Clerk of Court (OCC) of the Regional Trial Court (RTC) of the city or province under the supervision of the Executive Judge who issued their respective notarial commissions. However, they may also secure notarial registers from the Office of the Court Administrator.
3. Notarial registers shall be available at Php1,200.00<sup>1</sup> each. Said amount shall cover only the costs of printing and binding of the notarial registers exclusive of shipping charges when sold in the provinces. Payments shall be made either to the Cash Division, Financial Management Office, OCA, or to the Clerk of Court/accountable officer in the OCC of the RTC, as the case may be.
  - a. The amount collected shall be receipted and deposited to a separate account of the fiduciary fund to be known as the "Notarial Register Fund" (NRF).

b. The Cash Division, FMO, OCA, shall maintain with the Land Bank of the Philippines a separate special account of the fiduciary fund specifically for the NRF. A separate cashbook shall also be kept and maintained for the fund. Withdrawals of deposits shall be made only upon authorization or approval by the Chief Justice or his duly authorized representative.

c. The Court Administrator and the Financial Office of the OCA shall be the authorized signatories for this fund.

4. In view of the current unavailability of notarial registers, notaries public shall be allowed to use the temporary form attached hereto. The notary public concerned shall file a written request to use the improvised form with the executive judge that issued his commission. A copy of his current commission shall be attached to such request.

The notaries public who have been authorized to use such forms shall have them book-bound and initialed on each and every page by the executive judge before whom the request was filed. Each bound copy shall have a maximum of 106 pages and shall be treated and used in the same manner as the new notarial book.

Each request shall be limited to one bound copy. Should the bound copy be used up before the new notarial books are available, the notary public concerned may request anew for the use of bound temporary forms. The use of bound temporary forms shall end when the new notarial books are available but, upon written request, the executive judge may allow the notary public to use up the bound temporary forms.

5. The OCA shall, within the first ten (10) days of the first month of every quarter remit to the Office of the Solicitor General an amount equivalent to 10% of the gross collections during the preceding quarter as the share of the OSG in the sale of the notarial registers.
6. The printed certification of the Court Administrator as to the number of pages of each notarial register shall be countersigned by the following:

1. The price is subject to adjustments depending on printing and distribution costs.

OCA CIRCULAR NO. 157-2006 (continued)

- a. In the National Capital Region, the official of the Office of the Court Administrator authorized by the Court Administrator to so countersign; and
  - b. In the case of the other judicial regions, the Clerk of Court of the Regional Trial Court of the city or province where such book has been obtained for cost.
7. The Supreme Court Printing Office shall print the notarial registers. In the event the Printing Office cannot meet the requirements of the OCA, and subject to Republic Act No. 9184 (Government Procurement Reform Act), its implementing rules and regulations, and existing Supreme Court issuances on procurement, the Court Administrator may contract out the printing of notarial registers to the following printers in the following order:
- a. UP Printing Services;
  - b. The National Printing Office; or
  - c. Private printing firm.

The OCA shall resort to the third option only if the first two printers can not accommodate the requirements of the Court.

November 16, 2006.

(Sgd.) CHRISTOPHER O. LOCK  
Court Administrator



**OCA CIRCULAR NO. 162-2006**

**TO : THE CLERKS OF COURT OF THE COURT OF APPEALS, SANDIGANBAYAN AND COURT OF TAX APPEALS, AND THE EMPLOYEES WELFARE AND BENEFITS DIVISION, OFFICE OF THE ADMINISTRATIVE SERVICES, OFFICE OF THE COURT ADMINISTRATOR**

**SUBJECT: REQUEST FOR CLARIFICATION WHETHER IT IS STILL NECESSARY FOR JUSTICES AND JUDGES TO SECURE AN OMBUDSMAN CLEARANCE FOR PURPOSES OF THEIR APPLICATION FOR RETIREMENT.**

For your information and guidance is the Court *En Banc* resolution issued on October 17, 2006 in A.M. No. 06-10-18-SC (Re: Request for Clarification Whether it is Still Necessary for Justices and Judges to Secure an Ombudsman Clearance for Purposes of their Application for Retirement), to wit:

“A.M. No. 06-10-18-SC (Re: Request for Clarification Whether it is Still Necessary for Justices and Judges to Secure an Ombudsman Clearance for Purposes of their Application for Retirement) - This refers to the Letter dated October 12, 2006 of Mr. Joseph Bryan Hilary P. Davide, Chief Justice’s Staff Head, seeking clarification from the Court on whether it is still necessary for Justices and Judges to secure an Ombudsman Clearance for purposes of their application for retirement.

Memorandum Circular No. I Series of 1992 issued by the Office of the Ombudsman reads in full:

**MEMORANDUM CIRCULAR NO. I**

Series of 1992

**TO: ALL HEADS OF DEPARTMENTS, OFFICES, BUREAUS AND AGENCIES OF THE NATIONAL AND LOCAL-GOVERNMENTS, INCLUDING GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS**

**RE: OMBUDSMAN CLEARANCE**

Section 12 of Republic Act No. 3019, as amended, otherwise known as the “Anti-Graft and Corrupt Practices Act” provides that “(N)o public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery.”

In order that the foregoing prohibition may be strictly observed, all concerned are hereby enjoined not to allow the retirement, or accept the resignation of any “public officer” as defined under said Act without first securing/ presenting a clearance to the effect that he has no pending criminal or administrative case with this Office. Any person found to be not complying with this Circular may be punished

(Continued on NEXT page)

OCA CIRCULAR NO. 162-2006 (continued)

for contempt pursuant to Section 15(9) of Republic Act No. 6770 (Ombudsman Act of 1989).

This circular takes effect immediately.

February 11, 1992.

(Sgd.) CONRADO M. VASQUEZ  
Ombudsman

On the basis thereof, Justices and Judges, as one of the requirements for their application for retirement, are required to secure the Ombudsman Clearance to the effect that he or she has no pending criminal or administrative case filed with the Office of the Ombudsman. The Court finds, however, that such requirement has no legal justification.

Members of the Supreme Court may be removed from office only by impeachment. This is clear from Section 2,<sup>1</sup> Article XI of the Constitution. Further Section (1) thereof vests in the House of Representative the exclusive power to initiate all cases of impeachment. On the other hand, Section 6, Article VIII provides that the "Supreme Court shall have the administrative supervision over all courts and the personnel thereof."

In *Caoibes, Jr. v. Ombudsman*,<sup>2</sup> the Court in no uncertain terms stressed that the Office of the Ombudsman may not encroach into the Supreme Court's exclusive administrative jurisdiction over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk in this wise:

x x x Under Section 6, Article VIII of the Constitution, it is the Supreme Court which is vested with exclusive administrative supervision over all courts and its personnel. Prescinding from this premise, the Ombudsman cannot determine for itself and by itself whether a criminal complaint against a judge, or court employee, involves an administrative matter. The Ombudsman is duty bound to have all cases against judges and court

1. The provision reads, in part, thus:

SEC. 2. The President, Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

2. 413 Phil. 717, 725 (2001).

personnel filed before it, referred to the Supreme Court for determination as to whether an administrative aspect is involved therein. This rule should hold true regardless of whether an administrative case based on the act subject of the complaint before the Ombudsman is already pending with the Court. For, aside from the fact that the Ombudsman would not know of this matter unless he is informed of it, he should give due respect for and recognition of the administrative authority of the Court, because in determining whether an administrative matter is involved, the Court passes upon not only administrative liabilities but also other administrative concerns, as is clearly conveyed in the case of *Maceda v. Vasquez* (221 SCRA 464 [1993]).

The Ombudsman cannot dictate to, and bind the Court, to its findings that a case before it does or does not have administrative implications. To do so is to deprive the Court of the exercise of its administrative prerogatives and to arrogate unto itself a power not constitutionally sanctioned. This is a dangerous policy which impinges, as it does, on judicial independence.

*Maceda* is emphatic that by virtue of its constitutional power of administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, and take the proper administrative action against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.<sup>3</sup>

The requirement imposed on the Justices and Judges to secure the Ombudsman Clearance for purposes of their retirement is, thus, without basis in law.

**ACCORDINGLY**, Justices of the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, and Judges are not required to secure the Ombudsman Clearance for purposes of their application for retirement."

November 27, 2006.

(Sgd.) CHRISTOPHER O. LOCK  
Court Administrator

3. *Id.* at 724-725.

3<sup>rd</sup> 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>
Jan. 11	Presentation of the Project Evaluation Report on "Improving Judicial Proceedings Involving Child Sexual Abuse/Exploitation Case"	Justices' Lounge, Supreme Court, Manila
Jan. 22-25	Basic Mediation Course (Batangas Mediation Program)	Hotel Pontefino, Batangas City
Jan. 25-26 Jan. 31-Feb. 8	Seminar-Workshop on CEDAW, Gender Sensitivity, and the Courts 44 <sup>th</sup> Orientation Seminar-Workshop for Newly Appointed Judges	Supreme Court, Manila PHILJA Dev't. Center, Tagaytay City
Feb. 12 Feb. 15-16	Orientation-Seminar on the PMC Operation and Grievance Machinery Seminar on Democracy and Law at the Service of Human Person	Bacolod City, Negros Occ. Eduardo Aboitiz Foundation Inc., Cebu City
Feb. 20-Mar. 27	12 <sup>th</sup> Pre-Judicature Program	IBP Bldg., Ortigas Center, Pasig City
Feb. 20	Launching and Presentation of the New Code of Judicial Conduct for the Philippine Judiciary (Annotated)	Justices' Lounge, Supreme Court, Manila
Feb. 22-23 Mar. 14-22	Seminar-Workshop on CEDAW, Gender Sensitivity, and the Courts 45 <sup>th</sup> Orientation Seminar-Workshop for Newly Appointed Judges	Supreme Court, Manila PHILJA Dev't. Center, Tagaytay City
Mar. 26-29	Strengthening the Implementation of the Code of Muslim Personal Laws of the Philippines	Dynasty Court Hotel, Cagayan de Oro City
Mar. 27-28	Seminar-Workshop on Law and Economic Development Issues for the Philippine Judiciary	Quezon City Sports Club, Quezon City
Mar. 29-30	Seminar-Workshop on CEDAW, Gender Sensitivity, and the Courts for Selected Judges of the National Capital Judicial Region	Supreme Court, Manila

*Chancellor, Philippine Judicial Academy*  
**JUSTICE AMEURFINA A. MELENCIO HERRERA**

*Editor-in-Chief*  
**PROFESSOR SEDFREY M. CANDELARIA**

*Features and News*  
**JOCELYN D. BONDOC**  
**JENIFFER P. SISON**

*Layout, Production and Circulation*  
**ARMIDA M. SALAZAR**      **CHRISTINE V. ABEJUELA**  
**CHARMAINE C. SALTIVAN**      **SARAH JANE S. SALAZAR**

*Doctrines and Issuances*  
**JUSTICE MINERVA P. GONZAGA-REYES**  
**QUEENCY S. CORTEZ**

*Printing*  
**EDMUNDO M. MOREDO**

The *PHILJA Bulletin* is published quarterly by the Research and Linkages Office of the Philippine Judicial Academy, with office at the 3<sup>rd</sup> Floor of the Supreme Court Centennial Building, Padre Faura St. cor. Taft Ave., Manila. Telephone No. 552-9524; Telefax No. 552-9621; E-mail address: [research\\_philja@yahoo.com](mailto:research_philja@yahoo.com); Website address: <http://philja.supremecourt.gov.ph>