



PHILJA Bulletin



October to December 2010

Volume XII, Issue No.48

Ex
c
e
l
l
e
n
c
e

i
n

t
h
e

j
u
d
i
c
i
a
r
y

From the Chancellor's Desk

As the year 2010 closes, PHILJA has had a flurry of activities, as reflected in this issue.

To a seminar-workshop for Newly Appointed Clerks of Court and the latest Pre-Judicature Program, PHILJA added Special Focus Programs ranging from seminar-workshops on CEDAW and Gender Sensitivity to Courtroom and Personal Security Training for Judges, to the Rule of Procedure for Small Claims Cases, as well as Deposit, Insurance, Banking Practices and one on Court Leadership.

Among the very timely topics addressed were Anti-Human Trafficking, Sextortion and the New Rules on the Protection of the Environment.

Also covered were International Labour Standards in the Judiciary and Shari'a vis-à-vis The Family Code.

The Metrobank Foundation Professorial Chair Lecture Series went on and we had the Seventh this year.

A number of Convention-Seminars were participated in by us during this time, from that of the Philippine Judges Association to that of the First Level Clerks of Court, and to those of the Philippine Trial Judges League, Inc., the Philippine Association of Court Interpreters, and the Court Legal Researchers Association of the Philippines.

Mediation, too, was in the forefront of our attention and refresher courses were given in different parts of the country as well as a series of Judicial Dispute Resolution Workshops for selected Judges.

For the first time the Academy held a Seminar-Workshop on the Special Rules of Court on Alternative Dispute Resolution, with very encouraging results.

(Continued on page 7)

Table of Contents

<i>From the Chancellor's Desk</i>	1
<i>PHILJA News</i>	2
<i>New Rulings and Doctrinal Reminders</i>	7
<i>Resolutions, Orders and Circulars</i>	
<i>Memorandum Order No. 50-2010 - Creating the Chief Justice Committee to Address Case Congestions and Delays in the Lower Courts</i>	12
<i>Administrative Circular No. 81-2010 - Guidelines on the Implementation of Republic Act No. 9946</i>	13
<i>OCA Cir. No. 118-2010 - Policy on Undertime and Half-Day Absence</i>	19
<i>OCA Cir. No. 124-2010 - Submission of Monthly Accomplishment Report of Case Disposal</i>	19
<i>OCA Cir. No. 125-2010 - Submission of the Monthly Docket Inventory Report of Small Claims Cases</i>	20
<i>OCA Cir. No. 136-2010 - Reiteration of Circular No. 62-2001 (Re: Conduct of Flag-Raising and Flag-Lowering Ceremonies)</i>	21
<i>OCA Cir. No. 138-2010 - Detention in Jails of Children in Conflict with the Law</i>	21
<i>OCA Cir. No. 140-2010 - Additional Guidelines in the Implementation of Administrative Circular No. 51-2010</i>	22
<i>OCA Cir. No. 151-2010 - Speedy Disposition of Cases for Violations of Republic Act No. 9208 or Trafficking in Persons Cases</i>	23
<i>OCA Cir. No. 158-2010 - Reiteration of Administrative Circular No. 20-2002 dated April 24, 2002</i>	23
<i>Upcoming PHILJA Events</i>	24

PHILJA REACHES OUT TO THE CAR

The Philippine Judicial Academy recently participated in the Supreme Court Outreach Program by adopting Pinget Elementary School, Lucban District, Division of Baguio City, Cordillera Administrative Region (CAR), for its second outreach activity as a solo group. Now in its fourth year, the SC Outreach Program seeks to give aid to the country's hope, the school children. "Adopt a School" is the theme for 2010.

On December 3, 2010, the 26-member PHILJA Outreach Group presented the timely donations to the principal, teachers, and pupils who had earlier welcomed them with a short program. The TV set, amplifiers, speakers, and karaoke player replaced their faulty sound system; while two new parachute tents came in time to take the place of their old and torn one. Also donated were rubber alphabet puzzle mats for pre-school classrooms. One hundred ten backpacks filled with assorted food items were also distributed.

PHILJA's first outreach activity was the adoption of the Imus National High School in Imus, Cavite, on June 16, 2010. PHILJA contributed to the construction of an artesian well inside the school and donated a high-speed sewing machine, sports equipment, and library materials for the school's 82,000 students.



PHILJA BULLETIN

JUSTICE ADOLFO S. AZCUNA
Chancellor, Philippine Judicial Academy

PROFESSOR SEDFREY M. CANDELARIA
Editor in Chief

ARMIDA M. SALAZAR
Assistant Editor

ATTY. ORLANDO B. CARIÑO
JOCELYN D. BONDOC
JENIFFER P. SISON
CHRISTINE A. FERRER
Editorial Staff

SARAH JANE S. SALAZAR
Production and Circulation

EDMUNDO M. MOREDO
LETICIA G. JAVIER
Printing Services

The *PHILJA Bulletin* is published quarterly by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura St. cor. Taft Ave., Manila. Tel: 552-9524; Fax: 552-9621; E-mail: research_philja@yahoo.com; philja@scjudiciary.gov.ph Website: <http://philja.judiciary.gov.ph>

► 20th Orientation Seminar-Workshop for Newly Appointed Clerks of Court

Date: October 5 to 8, 2010

Venue: Grand Men Seng Hotel, Davao City

Participants: 52 newly appointed clerks of court

REGIONAL TRIAL COURTS

REGION VI

Atty. Jelou F. Almalbis-Laguna

RTC, OCC, Roxas City, Capiz

Atty. Adelaide Nancy Sybil G. Ayeng

RTC, Br. 47, Bacolod City, Negros Occidental

Atty. Jose Manuel A. Lopez

RTC, Br. 50, Bacolod City, Negros Occidental

Atty. Jobert M. Martelino

RTC, Br. 9, Kalibo, Aklan

Atty. Ma. Gisella Janina S. Tan

RTC, Br. 52, Bacolod City, Negros Occidental

Atty. Karen Joy Tan-Gaston

RTC, Br. 40, Silay City, Negros Occidental

Atty. Nadia Marie D. Tolentino-Obordo

RTC, Br. 15, Roxas City, Capiz

Atty. Michael Hanz D. Villaster

RTC, Br. 43, Bacolod City, Negros Occidental

REGION VII

Atty. Ma. Gay A. Erni-Puentenegro

RTC, Br. 59, Toledo City, Cebu

Atty. Leah B. Maraon

RTC, Br. 64, Guihulngan, Negros Oriental

Atty. Randy F. Nocete

RTC, Br. 62, Oslob, Cebu

Atty. Ingrid P. Sagmon

RTC, Br. 29, Toledo City, Cebu

REGION VIII

Atty. Erasto T. Balleo

RTC, Br. 29, Catbalogan, Samar

Atty. Gissle Gay A. Capacite-Ballais

RTC, Br. 34, Tacloban City, Leyte

Atty. Reynante C. Evangelista

RTC, Br. 27, Catbalogan, Samar

Atty. Carl A. Magsoling

RTC, Br. 12, Ormoc City, Leyte

Atty. Rhyna M. Peñaranda

RTC, Br. 8, Tacloban City, Leyte

Atty. Margaux Angeli R. Ramirez-Cañete

RTC, Br. 16, Naval, Biliran

REGION IX

Atty. Muiz-za M. Elang

RTC, Br. 14, Zamboanga City, Zamboanga Del Sur

REGION X

Atty. Cisco Franz S. Maclang

RTC, Br. 34, Cabadbaran, Agusan del Norte

Atty. Sora Dereka T. Orcullo

RTC, Br. 25, Cagayan de Oro City, Misamis Oriental

Atty. Roxann Marie B. Sario-Villarosa
RTC, Br. 35, Ozamis City, Misamis Occidental
 Atty. Joan A. Vallejos
RTC, OCC, Medina, Misamis Oriental
 Atty. Tessa Marie S. Villanueva
RTC, Br. 43, Gingoog City, Misamis Oriental
 Atty. Sheryl Jane C. Zambrano
RTC, Br. 1, Butuan City, Agusan del Norte

REGION XI

Atty. Francis Athanasius D. Ampig
RTC, Br. 26, Surallah, South Cotabato
 Atty. Francis C. Brion
RTC, Br. 18, Digos, Davao del Sur
 Atty. Armand B. Dioso
RTC, Br. 32, Lupon, Davao Oriental
 Atty. Gerardine A. Jamora
RTC, OCC, General Santos City, South Cotabato
 Atty. Rowena Fely S. Licas
RTC, Br. 34, Panabo, Davao del Norte
 Atty. Jeffrey C. Manluyang
RTC, Br. 5, Mati, Davao Oriental

REGION XII

Atty. Nadjer D. Pinatara
RTC, Br. 9, Marawi City, Lanao del Sur

MUNICIPAL TRIAL COURTS IN CITIES**REGION VII**

Ms. Maricel E. Duarte-Orosio
MTCC, OCC, Cebu City
 Ms. Clarina Noynay Villaruel
MTCC, Br. 1, Cebu City

REGION VIII

Mr. Noel M. Lee
MTCC, Br. 2, Tacloban City

REGION X

Ms. Maria Luz A. Duncano
MTCC, OCC, Butuan City
 Ms. Helenita T. Gaccion
MTCC, Br. 2, Cagayan de Oro City
 Mr. Francisco A. Puspup
MTCC, OCC, Cagayan de Oro City

REGION XI

Ms. Angelita P. Dullano
MTCC, Br. 4, Davao City

MUNICIPAL TRIAL COURTS**REGION VII**

Ms. Ma. Cleofe S. Romanos
MTC, Naga, Cebu

REGION VIII

Mr. Jason C. Lagado
MTC, Jaro, Leyte

REGION IX

Ms. Lennie S. Lacaya
MTC, Polanco, Zamboanga del Norte

REGION X

Mr. Alfredo G. Abao, Jr.
MTC, San Fernando, Bukidnon

MUNICIPAL CIRCUIT TRIAL COURTS**REGION VII**

Mr. Wyndell Q. Tapere
12th MCTC, Moalboal-Badian-Alcantara, Cebu

REGION VIII

Ms. Marina Remedios F. Adesna
7th MCTC, Guiuan-Mercedes, Eastern Samar
 Mr. Sulpicio M. Zabala
12th MCTC, Abuyog-Javier, Leyte

REGION X

Mr. Romeo Allan R. Navarro
9th MCTC, Gen. Luna-Pilar, Surigao del Norte
 Ms. Guada Gene H. Pernia
5th MCTC, Don Carlos-Dangcagan-Kitaotao, Bukidnon

REGION XI

Ms. Ruby M. Dalawis
2nd MCTC, Monkayo-Montevista, Compostela Valley
 Ms. Fe Corazon C. Gunayan
4th MCTC, Lupon Banaybanay, Davao Oriental
 Ms. Arlene M. Ledres
1st MCTC, Compostela-New Bataan, Compostela Valley

REGION XII

Mr. Joffrey C. Fortaleza
4th MCTC, Bagumbayan-Esperanza, Sultan Kudarat

► 21st Pre-Judicature Program

Date: October 4 to 15, 2010

Venue: East Asia Royale Hotel, General Santos City

Participants: 44 lawyers

1. Atty. Marife M. Alegre
2. Atty. Venchito M. Bangayan
3. Atty. Minveles V. Beloncio-Gulle
4. Atty. Jose C. Blanza, Jr.
5. Atty. Alfredo S. Cañizares, Jr.
6. Atty. Francis S. Carlos
7. Atty. Arturo C. Cloma
8. Atty. Rodolfo M. Chung
9. Atty. Dinah Jean S. Cornejo
10. Atty. Benjamin B. Cuanan
11. Atty. Rebecca G. Dardo-Seredrica
12. Atty. Bonifacio F. Doria, Jr.
13. Atty. Tomas C. Falgui II
14. Atty. Marivic E. Fillalan
15. Atty. Nilo J. Flaviano
16. Atty. Psyche Rizsavi B. Fontanilla

(Continued on next page)

17. Atty. Michael V. Francisco
18. Atty. Jose Jerry L. Fulgar
19. Atty. Victoria T. Galindez-Lacap
20. Atty. Gener R. Gayam
21. Atty. Chalmer C. Gevieso
22. Atty. Jacqueline Ann Marie O. Gomez
23. Atty. Noel L. Into
24. Atty. Jose Emmanuel D. Jabido
25. Atty. Edilberto L. Jamora
26. Atty. Kayugenn M. Kuda, Jr.
27. Atty. Mary Anne S. Lagare-Academia
28. Atty. Asuncion S. Malunas-Uayan
29. Atty. Leonard B. Mann
30. Atty. Honorato A. Mazo
31. Atty. Ramon R. Melliza
32. Atty. Emily G. Merced
33. Atty. Joyce Kho Mirabueno
34. Atty. Andres B. Mission, Jr.
35. Atty. Rafael O. Montilla
36. Atty. Fermin D. Ondoy, Jr.
37. Atty. Vicente T. Peña
38. Atty. Keizzle Anne F. Pendi
39. Atty. Emma V. Peralta-Nebran
40. Atty. Fatima K. San Pedro-Eugenio
41. Atty. Salvador G. Talamayan
42. Atty. Sandy J. Tolimao
43. Atty. Felipe Vicente A. Velasco
44. Atty. Arnel A. Zapatos

► **Roundtable Discussion on Court Leadership: Judicial Reform and Improving Judicial Administration**

Development Partners: PMO, ABA-ROLI

Date: October 7, 2010

Venue: Shangri-la Hotel, Makati City

Participants: 46 representatives from the Judiciary, RTC and MeTC judges of NCJR, and development partners



► **Seminar-Workshops on CEDAW and Gender Sensitivity for Court of Appeals Employees**

Development Partners: CA-GAD Focal Point, AHRC

Date: October 7 to 8, 2010

Venue: Century Park Hotel, Manila

Participants: 50 CA (Manila Station) employees

Date: November 4 to 5, 2010

Venue: The Mallberry Suites Business Hotel, Cagayan de Oro City

Participants: 52 CA (CDO Station) lawyers and employees

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

Metro Manila Mediation Program

Date: October 11 to 12, 2010

Venue: Court of Appeals Auditorium, Manila

Participants: 52 mediators

Negros Occidental Mediation Program

Date: October 28 to 29, 2010

Venue: Grand Regal Hotel, Bacolod City

Participants: 29 mediators

Bulacan, Cavite, and Rizal Mediation Program

Date: November 4 to 5, 2010

Venue: Bayview Park Hotel, Manila

Participants: 49 mediators

► **Courtroom Security Training for Judges**

Development Partners: OCA, NBI, EPJUST

Date: October 11 to 13, 2010

Venue: Imperial Palace Suites, Quezon City

Participants: 24 RTC and MeTC judges of NCJR

► **Midterm National Convention of the Philippine Judges Association**

Theme: A Judiciary Worthy of Public Trust

Date: October 13 to 15, 2010

Venue: Avenue Plaza Hotel, Naga City

Participants: 390 judges



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

Development Partners: OCA, USAID, ABA-ROLI

Date: October 14, 2010

Venue: Dakak Park Beach Resort, Zamboanga Del Norte

Participants: 81 MTCC, MTC and MCTC judges and clerks of court of Region IX

Date: November 16, 2010; November 18, 2010
Venue: L'Fisher Hotel, Bacolod City
Participants: Batch 1- 82 MTCC, MTC and MCTC judges and clerks of court of Region VI; Batch 2- 71 MTCC, MTC and MCTC judges and clerks of court of Region VI

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

Date: October 19 to 22, 2010; November 30 to December 3, 2010
Venue: Century Park Hotel, Manila
Participants: Batch 1-27 MeTC judges of Manila; Batch 2-20 RTC judges of Manila

► ***Tenth National Convention and Seminar of the First Level Clerks of Court Association of the Philippines***

Theme: FLECCAP: Moving Forward Amidst Changes with Integrity, Competence, and Unity
Date: October 20 to 22, 2010
Venue: Manila Pavilion Hotel, Manila
Participants: 310 MTCC, MTC and MCTC clerks of court

► ***Eighth Biennial National Convention and Seminar-Workshop of the Court Legal Researchers Association of the Philippines (CLERAP), Inc.***

Theme: Academic, Camaraderie, and Socio-Civic Awareness Among Court Legal Researchers
Date: October 20 to 22, 2010
Venue: Dynasty Court Hotel, Cagayan de Oro City
Participants: 240 court legal researchers

► ***Fourth Seminar-Workshop on Deposit Insurance, Banking Practices, and Bank Conservatorship, Receivership, and Liquidation***

Development Partner: PDIC
Date: October 26 to 27, 2010
Venue: Waterfront Insular Hotel, Davao City
Participants: 58 judges of special commercial courts of Regions IX to XII and selected RTC courts

► ***Seminar-Workshop on Combating Human Trafficking in the Philippines***

Development Partners: OCA, United States Department of Justice Criminal Division, USAID, ABA-ROLI
Date: October 28 to 29, 2010
Venue: Marco Polo Plaza, Cebu City
Participants: 45 comprising family and single sala court judges, prosecutors, and PNP officers of Regions VI to VIII

Date: November 2 to 3, 2010
Venue: Traders Hotel, Pasay City
Participants: 67 comprising family and single sala court judges, and prosecutors of NCJR

► ***Final Validation of the Sextortion Toolkit***

Development Partners: PWJA, IAWJ
Date: November 5 to 6, 2010
Venue: Willy's Beach Club Hotel, Boracay Island, Aklan
Participants: 36 comprising RTC, MeTC and MTC judges, prosecutors, public defense counsels, DSWD officers, PNP and BJMP officers, NGOs and media stationed in Aklan

► ***Roundtable Discussion on the Improved Use of International Labour Standards in the Judiciary***

Development Partner: ILO
Date: November 10, 2010
Venue: College of St. Benilde Hotel, Manila
Participants: 34 CA Justices

► ***Seminar-Workshop on the Improved Use of International Labour Standards in the Judiciary***

Development Partner: ILO
Date: November 11 to 12, 2010
Venue: College of St. Benilde Hotel, Manila
Participants: 67 SC and CA lawyers

► ***Judicial Dispute Resolution (JDR) Workshop***

Date: November 12, 2010
Venue: Justices' Lounge, Supreme Court, Manila
Participants: 18 JDR trainers and resource persons

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

Date: November 16 to 18, 2010
Venue: Century Park Hotel, Manila
Participants: 51 comprising RTC, MeTC, MTCC, MTC and MCTC judges, PAO lawyers, PNP and Philippine Navy officers, and representatives from the Commission on Muslim Filipinos

► ***Information Dissemination through a Dialogue between Barangay Officials of the City of Tagbilaran and Court Officials***

Development Partners: PMO, LGU of Tagbilaran City
Date: November 22, 2010
Venue: Hall of Justice, Tagbilaran City, Bohol
Participants: 75 barangay officials and DILG representatives of Tagbilaran City

► **Seminar-Workshop on the Special Rules of Court on Alternative Dispute Resolution**

Date: November 22 to 24, 2010

Venue: College of St. Benilde Hotel, Manila

Participants: 36 commercial court judges and vice-executive judges of NCJR

► **Personal Security Training for Judges**

Development Partners: OCA, NBI

Date: November 23 to 25, 2010

Venue: Ilocos Norte Hotel and Convention Center, Ilocos Norte

Participants: 55 selected RTC, MTCC, MTC and MCTC judges of Regions I to III

► **Seventh Metrobank Foundation Professorial Chair Lecture**

Topic: Corporate Rehabilitation in the Philippines

Lecturer: Justice Dante O. Tinga, 2010 Metrobank Foundation Professorial Chair Recipient in Commercial/Remedial Law

Development Partner: Metrobank Foundation, Inc.

Date: November 24, 2010

Venue: Centennial Building, Court of Appeals, Manila

Participants: 222 comprising members of the Judiciary, SC and PHILJA officials, SC and CA lawyers, RTC judges of NCJR, Metrobank officials, and members of the academe



► **17th Annual Convention and Seminar of the Philippine Trial Judges League, Inc. (PTJLI)**

Theme: Moving Forward to Meet the Challenges of a Strong Judiciary Under a New Administration

Date: November 25-27, 2010

Venue: Apo View Hotel, Davao City

Participants: 365 judges

► **Fourth Multi-Sectoral Capacity Building on Environmental Laws and The Rules of Procedure for Environmental Cases**

Development Partners: UNDP, DENR

Date: December 1 to 3, 2010

Venue: Fort Ilocandia Resort and Hotel, Laoag City

Participants: 85 comprising RTC judges and clerks of court, prosecutors, PAO lawyers, and DENR Regional officers, PCG officers and NGOs of Region II

► **Sixth National Convention and Seminar of the Philippine Association of Court Interpreters (PhilACI)**

Theme: Court Interpreters: Continuously Building Bridges Through Better Service and Renewed Commitment

Date: December 1 to 3, 2010

Venue: Hotel Supreme Convention Plaza, Baguio City

Participants: 460 court interpreters

OCA CIRCULAR NO. 158-2010 (cont'd from page 23)

- a. All civil cases, settlement of estates, and cases covered by the Rule on Summary Procedure except those which by law may not be compromised;
 - b. Cases cognizable by the Lupong Tagapamayapa under the Katarungang Pambarangay Law;
 - c. The civil aspect of BP Blg. 22 cases; and
 - d. The civil aspect of quasi-offenses under Title 14 of the Revised Penal Code.
2. Upon appearance of the parties during the pre-trial in cases covered by mediation, immediately order the parties to appear before the Philippine Mediation Center (PMC) units located in the courthouse for initial mediation conference;
 3. Issue appropriate sanctions upon failure of the parties to appear before the PMC unit, since mediation is part of pre-trial;
 4. Ensure the regular referral of cases for mediation to the PMC unit; and
 5. The monthly inventory shall be prepared and signed by the Branch Clerk of Court, duly noted by the Presiding Judge, for submission to the Office of the Court Administrator and the Philippine Judicial Academy.

For strict compliance.

November 23, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

New Rulings

CIVIL LAW

Collation; two concepts of collation; its purpose and when will it take place; heirs; kinds of heirs.

The term collation has two distinct concepts: *first*, it is a mere mathematical operation by the addition of the value of donations made by the testator to the value of the hereditary estate; and *second*, it is the return to the hereditary estate of property disposed of by lucrative title by the testator during his lifetime.

The purposes of collation are to secure equality among the compulsory heirs in so far as is possible, and to determine the free portion, after finding the legitime, so that inofficious donations may be reduced.

Collation takes place when there are *compulsory* heirs, one of its purposes being to determine the legitime and the free portion. If there is no compulsory heir, there is no legitime to be safeguarded.

The records do not show that the decedent left any primary, secondary, or concurring compulsory heirs. He was only survived by his siblings, who are his *collateral* relatives and, therefore, are not entitled to any legitime – that part of the testator’s property which he cannot dispose of because the law has reserved it for *compulsory* heirs.

The compulsory heirs may be classified into (1) primary, (2) secondary, and (3) concurring. The primary compulsory heirs are those who have precedence over and exclude other compulsory heirs; legitimate children and descendants are primary compulsory heirs. The secondary compulsory heirs are those who succeed only in the absence of the primary heirs; the legitimate parents and ascendants are secondary compulsory heirs. The concurring compulsory heirs are those who succeed together with the primary or the secondary compulsory heirs; the illegitimate children, and the surviving spouse are concurring compulsory heirs.

The decedent not having left any compulsory heir who is entitled to any legitime, he was at liberty to donate all his properties, even if nothing was left for his siblings-collateral relatives to inherit. His donation to petitioner, assuming that it was valid, is deemed as donation made to a “stranger,” chargeable against the free portion of the estate. There being no compulsory heir, however, the donated property is not subject to collation.

The decedent’s remaining estate should thus be partitioned *equally* among his heirs-siblings-collateral

relatives, herein petitioner and respondents, pursuant to the provisions of the Civil Code, *viz*:

ARTICLE 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles. (*Underscoring supplied*)

Article 1004. Should the only survivors be brothers and sisters of the full blood, they shall inherit in equal shares. (*Emphasis and underscoring supplied*)

(Carpio Morales, J., Amelia P. Arellano, represented by her duly appointed guardians, Agnes P. Arellano and Nona P. Arellano v. Francisco Pascual and Miguel Pascual, G.R. No. 189776, December 15, 2010.)

BAR MATTER

A lawyer cannot be disbarred twice.

“While we agree with the findings of the IBP, we cannot, however, adopt its recommendation to disbar Gutierrez for the second time, considering that Gutierrez had already been previously disbarred. Indeed, as the IBP pointed out, we do not have double or multiple disbarment in our laws or jurisprudence. Neither do we have a law mandating a minimum 5-year requirement for readmission, as cited by the IBP. Thus, while Gutierrez’s infraction calls for the penalty of disbarment, we cannot disbar him anew.”

(*Per curiam*, Manuel C. Yuchico v. Atty. Fred L. Gutierrez, A.C. No. 8391 [Formerly CBD Case No. 06-1631], November 23, 2010.)

From the Chancellor’s Desk

Continued from page 1

The year-end also witnessed the refurbishment of our Manila offices and the completion of our new buildings and facilities in Tagaytay.

All these augur well for a more vigorous and proactive coming year for one and all.

We thank all who made these projects and activities possible and successful. We thank specially our Board of Trustees, headed by the Honorable Chief Justice Renato C. Corona, and the Supreme Court itself which has consistently supported all our endeavors.

All the best for the holidays and the New Year.

Adolfo S. Azcuna
Chancellor

Doctrinal Reminders

ADMINISTRATIVE LAW

Career Service; positions in the career service; career executive service; positions in the career executive service.

Executive Order No. 292 or the Administrative Code of 1987 provides for three classes or levels in the career service. Book V, Title I, Subsection A, Chapter 2, Section 8 thereof provides:

SEC. 8. Classes of Positions in the Career Service. –

- (1) Classes of positions in the career service appointment to which requires examinations shall be grouped into three major levels as follows:
 - (a) The first level shall include clerical, trades, crafts, and custodial service positions which involve non-professional or subprofessional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies;
 - (b) The second level shall include professional, technical, and scientific positions which involve professional, technical or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level; and
 - (c) The third level shall cover positions in the Career Executive Service.
- (2) Except as herein otherwise provided, entrance to the first two levels shall be through competitive examinations, which shall be open to those inside and outside the service who shall meet the minimum qualification requirements. Entrance to a higher level does not require previous qualification in the lower level. Entrance to the third level shall be prescribed by the Career Executive Service Board.
- (3) Within the same level, no civil service examination shall be required for promotion to a higher position in one or more related occupation groups. A candidate for promotion should, however, have previously passed the examination for that level. (*Emphasis provided*)

Section 7 of the same code specifically delineates the coverage of the Career Executive Service, thus:

SEC. 7. Career Service. – The Career Service shall be characterized by (1) entrance based on merit and fitness to be determined as far as practicable by competitive examination, or based on highly technical qualifications; (2) opportunity for advancement to higher career positions; and (3) security of tenure.

The Career Service shall include:

- (1) Open Career positions for appointment to which prior qualification in an appropriate examination is required;
- (2) Closed Career positions which are scientific, or highly technical in nature; these include the faculty and academic staff of state colleges and universities, and scientific and technical positions in scientific or research institutions which shall establish and maintain their own merit systems;
- (3) Positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equal rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;
- (4) Career officers, other than those in the Career Executive Service, who are appointed by the President, such as the Foreign Service Officers in the Department of Foreign Affairs;
- (5) Commissioned officers and enlisted men of the Armed Forces which shall maintain a separate merit system;
- (6) Personnel of government-owned or controlled corporations, whether performing governmental or proprietary functions, who do not fall under the non-career service; and
- (7) Permanent laborers, whether skilled, semi-skilled or unskilled. (*Emphasis provided*)

Clearly, although the Administrative Code gives the CESB jurisdiction over entrance to the third level or the CES, the officers should be all “appointed by the President.”

Also worthy of note are CSC Resolution No. 100623 dated March 29, 2010 and CSC Memorandum Circular No. 7, S. 2010, both of which provide for clarificatory guidelines on the scope of the third level in the civil service:

1. The third level or Career Executive Service (CES) shall only cover the positions of Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;
2. Executive and managerial positions in the career service other than the foregoing shall belong to the second level; and
3. All policies and issuances of the Commission which are not in conformity with these guidelines are superceded, repealed, amended or modified accordingly.

Doctrinal Reminders
 ADMINISTRATIVE LAW (continued)

As earlier stated, the Court interpreted Section 7(3) to mean that the CES covers presidential appointees only.

(Mendoza, J., *Civil Service Commission v. Court of Appeals and Philippine Charity Sweepstakes Office*, G.R. No. 185766 and *Civil Service Commission v. Court of Appeals and Philippine Charity Sweepstakes Office*, G.R. No. 185767, November 23, 2010.)

COMMERCIAL LAW

Unlicensed foreign non-resident corporation doing business in the Philippines cannot file suits in Philippines; exceptions.

As a rule, unlicensed foreign non-resident corporations doing business in the Philippines cannot file suits in the Philippines. This is mandated under Section 133 of the Corporation Code, which reads:

SEC. 133. *Doing business without a license.* – No foreign corporation transacting business in the Philippines without a license, or its successors or assigns, shall be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines, but such corporation may be sued or proceeded against before Philippine courts or administrative tribunals on any valid cause of action recognized under Philippine laws.

A corporation has a legal status only within the state or territory in which it was organized. For this reason, a corporation organized in another country has no personality to file suits in the Philippines. In order to subject a foreign corporation doing business in the country to the jurisdiction of our courts, it must acquire a license from the Securities and Exchange Commission and appoint an agent for service of process. Without such license, it cannot institute a suit in the Philippines.

The exception to this rule is the doctrine of estoppel. Global is estopped from challenging Surecomp’s capacity to sue.

A foreign corporation doing business in the Philippines without license may sue in Philippine courts a Filipino citizen or a Philippine entity that had contracted with and benefited from it. A party is estopped from challenging the personality of a corporation after having acknowledged the same by entering into a contract with it. The principle is applied to prevent a person contracting with a foreign corporation from later taking advantage of its noncompliance with the statutes, chiefly in cases where such person has received the benefits of the contract.

(Nachura, J., *Global Business Holdings, Inc. (formerly Global Business Bank, Inc.) v. Surecomp Software, B.V.*, G.R. No. 173463, October 13, 2010.)

REMEDIAL LAW

Withdrawal of counsel from a case; requirements of a valid withdrawal.

Rule 138, Section 26 of the Rules of Court outlines the procedure in case of withdrawal of counsel. It states:

**RULE 138
 ATTORNEYS AND ADMISSION TO BAR**

SEC. 26. *Change of attorneys.* – An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. In case of substitution, the name of the attorney newly employed shall be entered in the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

Under the first sentence of Section 26, the withdrawal of counsel with the conformity of the client is completed once the same is filed in court. No further action thereon by the court is needed other than the mechanical act of the Clerk of Court of entering the name of the new counsel in the docket and of giving written notice thereof to the adverse party.

In this case, it is uncontroverted that the withdrawal of respondent Samsung’s original counsel, V.E. Del Rosario and Partners, on October 19, 2000, was with the client’s consent. Thus, no approval thereof by the trial court was required because a court’s approval is indispensable only if the withdrawal is without the client’s consent.

It being daylight clear that the withdrawal of respondent Samsung’s original counsel was sufficient as the same carried the stamp of approval of the client, the notice of mediation sent to respondent Samsung’s original counsel was ineffectual as the same was sent at the time when such counsel had already validly withdrawn its representation. Corollarily, the absence of respondent Samsung during the scheduled mediation conference was excusable and justified. Therefore, the trial court erroneously dismissed Civil Case No. 97-86265.

(Perez, J., *Real Bank, Inc. v. Samsung Mabuhay Corporation*, G.R. No. 175862, October 13, 2010.)

Doctrinal Reminders
 REMEDIAL LAW (continued)

Writ of possession; obligation of court to issue *ex parte* writ of possession in extrajudicial foreclosure sale ministerial except when there is a third party in possession of the property.

Under Section 33, Rule 39 of the Rules of Court, which is made to apply suppletorily to the extrajudicial foreclosure of real estate mortgages by Section 6, Act 3135, as amended, the possession of the mortgaged property may be awarded to a purchaser in the extrajudicial foreclosure unless a third party is actually holding the property adversely to the judgment debtor. Section 33 provides:

SEC. 33. Deed and possession to be given at expiration of redemption period; by whom executed or given.

If no redemption be made within one year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever 60 days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor.

The same issue had been raised in *Bank of the Philippine Islands v. Icot*, *Development Bank of the Philippines v. Prime Neighborhood Association*, *Dayot v. Shell Chemical Company (Phils.), Inc.*, and *Philippine National Bank v. Court of Appeals*, and we uniformly held that the obligation of the court to issue an *ex parte* writ of possession in favor of the purchaser in an extrajudicial foreclosure sale ceases to be ministerial once it appears that there is a third party in possession of the property who is claiming a right adverse to that of the debtor/mortgagor.

The purchaser's right of possession is recognized only as against the judgment debtor and his successor-in-interest but not against persons whose right of possession is adverse to the latter. In this case, petitioner

opposed the issuance of the writ of possession on the ground that he is in actual possession of the mortgaged property under a claim of ownership. He explained that his title to the property was cancelled by virtue of a falsified deed of donation executed in favor of spouses Peñaredondo. Because of this falsification, he filed civil and criminal cases against spouses Peñaredondo to nullify the deed of donation and to punish the party responsible for the falsified document. Petitioner's claim that he is in actual possession of the property is not challenged, and he has come to court asserting an ownership right adverse to that of the mortgagors, the spouses Peñaredondo.

The third party's possession of the property is legally presumed to be based on a just title, a presumption which may be overcome by the purchaser in a judicial proceeding for recovery of the property. Through such a judicial proceeding, the nature of the adverse possession by the third party may be determined, after such third party is accorded due process and the opportunity to be heard. The third party may be ejected from the property only after he has been given an opportunity to be heard, conformably with the time-honored principle of due process.

(Nachura, J., *Emmanuel C. Villanueva v. Cherdan Lending Investors Corporation*, G.R. No. 177881, October 13, 2010.)

Notice and hearing required whether bail is a matter of right or discretion; duties of a judge in application for bail.

Basco v. Rapatalo laid down the rules outlining the duties of a judge in case an application for bail is filed:

- (1) **Notify the prosecutor of the hearing** of the application for bail or require him to submit his recommendation x x x;
- (2) **Conduct a hearing** of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its discretion x x x;
- (3) Decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution x x x; [and]
- (4) If the guilt of the accused is not strong, discharge the accused upon the approval of the [bail bond]. x x x Otherwise, petition should be denied.

In the present case, Judge Buaya granted the *ex parte* motion to grant bail on the same day that it was filed by the accused. He did this without the required notice and hearing. He justified his action on the *ex parte* motion by arguing that the offense charged against the accused was a bailable offense; a hearing

Doctrinal Reminders
 REMEDIAL LAW (continued)

was no longer required since bail was a matter of right. Under the present Rules of Court, however, notice and hearing are required whether bail is a matter of right or discretion. Likewise, jurisprudence is replete with decisions on the procedural necessity of a hearing, whether summary or otherwise, relative to the grant of bail, especially in cases involving offenses punishable by death, *reclusion perpetua* or life imprisonment, where bail is a matter of discretion.

Judge Buaya further argued that in granting the *ex parte* motion, he was merely correcting a reversible error. Believing that the offense committed was bailable in nature, he opined that when the investigating prosecutor revoked the bail already posted by the accused, the prosecutor gravely violated the accused's constitutional right to bail. Judge Buaya firmly relied on the previous order of the investigating MTC judge who, according to him, correctly fixed the amount of bail. Thus, conducting a bail hearing on the *ex parte* motion was no longer necessary. Even assuming, however, that the previous order of the investigating MTC judge was correct in granting bail to the accused, reliance on a previous order granting bail does not justify the absence of a hearing in a subsequent petition for bail.

The Court has always stressed the indispensable nature of a bail hearing in petitions for bail. Where bail is a matter of discretion, the grant or the denial of bail hinges on the issue of whether or not the evidence on the guilt of the accused is strong, and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. In order for the judge to properly exercise this discretion, he must first conduct a hearing to determine whether the evidence of guilt is strong. This discretion lies not in the determination of whether or not a hearing should be held, but in the appreciation and evaluation of the weight of the prosecution's evidence of guilt against the accused.

In any event, whether bail is a matter of right or discretion, a hearing for a petition for bail is required in order for the court to consider the guidelines set forth in Section 9, Rule 114 of the Rules of Court in fixing the amount of bail. This Court has repeatedly held in past cases that even if the prosecution fails to adduce evidence in opposition to an application for bail of an accused, the court may still require the prosecution to answer questions in order to ascertain, not only the strength of the State's evidence, but also the adequacy of the amount of bail.

(Brion, J., Lorna M. Villanueva v. Judge Apolinario M. Buaya, A.M. No. RTJ-08-2131 [Formerly OCA IPI No. 05-2241-RT], November 22, 2010.)

Substituted service of summons; how served.

In *Manotoc v. Court of Appeals*, the Court ruled:

If the substituted service will be effected at defendant's house or residence, it should be left with a person of "suitable age and discretion then residing therein." A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. "Discretion" is defined as "the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed." Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the "relation of confidence" to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. **The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipient's relationship with the defendant is, and whether said person comprehends the significance of the receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.** (*Emphasis supplied*)

In this case, the process server failed to specify Gary Acob's age, his relationship to petitioners, and to ascertain whether he comprehends the significance of the receipt of the summons and his duty to deliver it to petitioners or at least notify them of said receipt of summons.

In sum, petitioners were not validly served with summons and the complaint in Civil Case No. 3719 by substituted service. Hence, the MTC failed to acquire jurisdiction over the person of the petitioners and, thus, the MTC's August 23, 2004 Decision is void. Since the MTC's August 23, 2004 Decision is void, it also never became final.

(Carpio, J., Abubakara A. Afdal and Fatima A. Afdal v. Romeo Carlos, G.R. No. 173379, December 1, 2010.)

MEMORANDUM ORDER NO. 50-2010**CREATING THE CHIEF JUSTICE COMMITTEE TO ADDRESS CASE CONGESTIONS AND DELAYS IN THE LOWER COURTS**

Whereas, the dockets of most of first and second level courts, especially in the highly urbanized areas, are heavily clogged with cases, some having loads in excess of 2,000 cases;

Whereas, some 40 percent of criminal cases in courts with such heavily clogged dockets are dismissed because the complainants stop showing up after so many postponements;

Whereas, speedy and inexpensive justice is not possible with case congestions and delays; and

Whereas, there is an urgent need to address this situation even with the little resources available to the Judicial Department;

NOW THEREFORE, there is hereby created the Chief Justice Committee to Address Congestions and Delays in the Lower Courts to be composed of the following:

Chairman: **Chief Justice Renato C. Corona**
Supreme Court

Working
Vice

Chairman: **Associate Justice Roberto A. Abad**
Supreme Court

Members: **Associate Justice Lucas P. Bersamin**
Supreme Court

Associate Justice Jose Portugal Perez
Supreme Court

Hon. Raul B. Villanueva
Deputy Court Administrator
Supreme Court

Judge Geraldine Faith A. Econg
Deputy Clerk of Court and Judicial Reform
Program Administrator, Supreme Court

Hon. Richard D. Fadullon
Senior Deputy State Prosecutor
Department of Justice

Hon. Persida R. Acosta
Chief Public Attorney
Department of Justice

Judge Maria Filomena D. Singh
Presiding Judge
Regional Trial Court, Quezon City

Judge Jean Marie A. Bacorro-Villena
Presiding Judge
Metropolitan Trial Court, Manila

Dean Jose Manuel I. Diokno
College of Law, De La Salle University

Staffs: **Atty. Blessilda Abad-Gamo**
Judicial Staff Head

Office of Associate Justice Roberto Abad
Atty. May Rachel N. Nolasco
Atty. Rigor R. Pascual
Edervin Saquiton

The Committee shall have the following duties and objectives:

1. It shall take inventory of case congestions and delays in the lower courts all over the country and prepare a profile of the same based on hierarchical levels, geographic location, kinds of cases handled, and other characteristics that are essential to a proper understanding of the congestions and delays in the hearing and adjudication of cases.
2. It shall investigate the causes of such congestions and delays with a view to eliminating or minimizing them;
3. It shall establish a system for quickly detecting build-ups of case congestions and delays in the subject courts and another system that will promptly abort, control, and roll back such detected build-ups;
4. Where the solutions to case congestions and delays lie in the application of already existing rules and practices, the Committee shall direct and oversee the optimum use of available human and material resources to immediately put such solutions in place;
5. The Committee shall re-examine existing strategies, systems, and procedures, judicial or administrative, and develop for the Court's approval and implementation new ones that are designed to overcome case congestion and delays in the administration of justice to the people; and
6. It shall perform such functions and exercise such powers as are inherent, incidental, or essential to the accomplishment of its above duties and objectives.

The Chairman, Working Chairman, Members, and Staffs of the Task Force shall be entitled to expense allowance prescribed in Administrative Circular 13-99 issued by the Chief Justice on September 20, 1999.

This Memorandum Order shall take effect upon its issuance.

Manila, October 26, 2010.

(Sgd.) **RENATO C. CORONA**
Chief Justice

ADMINISTRATIVE CIRCULAR NO. 81-2010**GUIDELINES ON THE IMPLEMENTATION OF REPUBLIC ACT NO. 9946 (AN ACT GRANTING ADDITIONAL RETIREMENT, SURVIVORSHIP, AND OTHER BENEFITS TO MEMBERS OF THE JUDICIARY, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 910, AS AMENDED, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES)****COVERAGE**

These guidelines shall apply to all Justices of the Supreme Court (SC), the Court of Appeals (CA), the Sandiganbayan (SB), the Court of Tax Appeals (CTA), and Judges of the Regional Trial Court (RTC), Metropolitan Trial Court (MeTC), Municipal Trial Court in Cities (MTCC), Municipal Trial Court (MTC), Municipal Circuit Trial Court (MCTC), Shari'a District Court (SDC), Shari'a Circuit Court (SCC) or any other Court established thereafter.

PURPOSE

To set out the policies and procedures to be observed regarding the implementation of the grant of additional retirement, survivorship, and other benefits to the members of the Judiciary as provided under Republic Act No. 9946 (RA No. 9946) amending Republic Act No. 910 (RA No. 910).

DEFINITION OF TERMS

- 1) *Salary* – The actual basic monthly salary of Justices and Judges, including step increments and longevity pay (A.M. No. 03-12-04-SC, Resolution, February 24, 2004) at the rates provided under the Modified Salary Schedule for Civilian Personnel pursuant to the Senate and House of Representatives Joint Resolution No. 4 approved on June 17, 2009, and in accordance with the implementing guidelines that may be issued therefor.
- 2) *Representation Allowance and Transportation Allowance (RATA)* – Allowances given to officials at a monthly standard rate in order to defray representation and transportation expenses while in the performance of the duties of their positions. The amount of the allowance shall be in accordance with the rates provided for under the General Appropriations Act of any current year.
- 3) *Other Allowances* – Standard allowances given to all government employees at prescribed rates, guidelines, rules and regulations, such as, but not limited to, the personnel economic relief allowance (PERA) and the additional compensation allowance (ADCOM), which is now incorporated in the PERA pursuant to Joint Resolution No. 4 as implemented

in Budget Circular No. 2009-3 dated August 18, 2009. The term shall include the Special Allowance for the Judiciary (SAJ) pursuant to Section 5, Republic Act No. 9227.

- 4) *Permanent Disability* – Illness or injury considered as permanent disability under existing laws, rules and regulations and determined and certified to by the SC Medical and Dental Services.
- 5) *Heirs* – Those entitled to succeed in the estate of the deceased Justice or Judge under the law on succession.
- 6) *Surviving Spouse* – The legitimate spouse, of the Justice or Judge.
- 7) *Child* – A minor child, whether legitimate or not, of the Justice or Judge entitled to the benefit.

WHO ARE ENTITLED, QUALIFICATIONS AND BENEFITS**A. Compulsory Retirement**

1. Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established who has rendered at least 15 years service in the Judiciary or in any other branch of the government, or in both, and retires for having attained the age of 70 years.
2. Upon retirement, a Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established, shall be automatically entitled to a lump sum of five years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was receiving on the date of his/her retirement.

The Justice or Judge with less than 15 years service in the government or judiciary who retires for having attained the age of 70 years shall automatically receive the same benefits as aforementioned.
3. After the expiration of the five-year period, the Justice or Judge shall receive during the residue of his/her natural life, a monthly pension equivalent to the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was receiving at the time of his/her retirement.

The Justice or Judge with less than 15 years service in the government or judiciary who retires for having attained the age of 70 years

(Continued on next page)

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

shall be entitled to a *pro rata* monthly pension computed as follows:

Number of years in the government or judiciary <u>15 years</u>	x	Basic pay plus the highest monthly aggregate of RATA, PERA, ADCOM and other allowances
---	---	--

4. The Justice or Judge shall be entitled to a non-wage benefit in favor of one child in the form of education scholarship consisting of free tuition fee for one Bachelor's Degree in a state university or college. The admission of the child entitled to the benefit shall be subject to the rules and regulations of such state university or college. The Bachelor's Degree should be completed within the prescribed number of years in the curriculum of the state of university or college.

B. Optional Retirement

1. Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established who has attained the age of 60 years and has rendered at least 15 years service in the government, the last three years of which shall have been continuously rendered in the Judiciary.
2. Upon retirement, a Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established, shall be automatically entitled to a lump sum of five years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was receiving on the date of his/her retirement.
3. After the expiration of the five-year period, the Justice or Judge shall receive during the residue of his/her natural life, a monthly pension equivalent to the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was then receiving.
4. The Justice or Judge shall be entitled to a non-wage benefit in favor of one child in the form of education scholarship consisting of free tuition fee for one Bachelor's Degree in a state university or college. The admission of the child entitled to the benefit shall be subject to the rules and regulations of such state university or college. The Bachelor's Degree should be completed within the prescribed number of years in the curriculum of the state university or college.

C. Permanent Disability Retirement

1. Total Permanent Disability

- a. Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established, who retires by reason of any permanent disability contracted during the Justice's or Judge's incumbency in office and prior to the date of retirement, shall be entitled to receive a gratuity equivalent to 10 years on the basis of the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was receiving on the date of his/her retirement.
- b. Should the Justice or Judge survive after 10 years, he/she shall continue to receive during the residue of his/her natural life a monthly pension equivalent to the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was then receiving, provided that such Justice or Judge has rendered at least 15 years of government service.

The Justice or Judge with less than 15 years service in the government or Judiciary shall be entitled to a *pro rata* monthly pension computed as follows:

Number of years in the government or judiciary <u>15 years</u>	x	Basic pay plus the highest monthly aggregate of RATA, PERA, ADCOM and other allowances
---	---	--

- c. The Justice or Judge shall be entitled to a non-wage benefit in favor of one child in the form of education scholarship consisting of free tuition fee for one Bachelor's Degree in a state university or college. The admission of the child entitled to the benefit shall be subject to the rules and regulations of such state university or college. The Bachelor's Degree should be completed within the prescribed number of years in the curriculum of the state university or college.

2. Partial Permanent Disability

- a. Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or of any other Court thereafter established, who retires at the age of 70 years with the attendance of any partial permanent disability contracted during his/her incumbency and prior to the date of retirement, shall receive an additional

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

gratuity equivalent to two years lump sum that he/she is entitled to receive.

- b. Should the Justice or Judge survive after seven years, he/she shall continue to receive during the residue of his/her natural life a monthly pension equivalent to the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM which he/she was then receiving, provided such Justice or Judge has rendered at least 15 years of government service.

The Justice or Judge with less than 15 years service in the government or judiciary who retires for having attained the age of 70 years shall be entitled to a *pro rata* monthly pension computed as follows:

Number of years in the government or judiciary 15 years	x	Basic pay plus the highest monthly aggregate of RATA, PERA, ADCOM and other allowances
--	---	--

- c. A Justice or Judge who retires with the attendance of any partial permanent disability five years prior to the effectivity of RA No. 9946 shall be entitled to the same benefits provided for under said Act.
- d. The Justice or Judge shall be entitled to a non-wage benefit in favor of one child in the form of education scholarship consisting of free tuition fee for one Bachelor's Degree in a state university or college. The admission of the child entitled to the benefit shall be subject to the rules and regulations of such state university or college. The Bachelor's Degree should be completed within the prescribed number of years in the curriculum of the state university or college.

D. Death

1. The heirs of a Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or any other Court thereafter established who dies while in actual service, regardless of his/her age and length of service, shall receive a lump sum of five years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM received by him/her as such Justice or Judge.

2. The heirs of the deceased Justice or Judge who has rendered at least 15 years service either in the Judiciary or in any other branch of Government, or both, shall be entitled to a lump sum of 10 years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of RATA and other allowances such as PERA and ADCOM received by him/her as such Justice or Judge.
3. The heirs of a Justice or Judge who is killed because of his/her work as such, shall receive the lump sum of 10 years gratuity provided that the Justice or Judge has served the government for at least five years regardless of age at the time of death. Should the government service be less than five years, the heirs shall receive a lump sum of five years gratuity. (A.M. No. 02-12-01-SC dated September 30, 2003)
4. It is presumed that death is work-related when a Justice or Judge is killed intentionally while in the service.

E. Survivorship Pension Benefits

The legitimate surviving spouse of a Justice or Judge who (1) has retired or was eligible to retire optionally at the time of death, and (2) was receiving or would have been entitled to receive a monthly pension, shall be entitled to receive the said benefits that the deceased Justice or Judge would have received had the Justice or Judge not died. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.

F. Other Entitlements

1. All pension benefits of retired members of the Judiciary shall be automatically increased whenever there is an increase in the salary of the same position from which he/she retired.
2. The benefits under RA No. 9946 shall be granted to all those who have retired prior to its effectivity, provided that the benefits shall be applicable only to members of the Judiciary and the benefits to be granted shall be prospective, beginning February 11, 2010, the date of effectivity of RA No. 9946.
3. The implementing guidelines provided herein shall be applicable to officials of the Judiciary who have been granted the rank, salary and privileges of a member of the Judiciary subject to the conditions set forth in the resolutions, dated December 9, 2008, and February 17, 2009, in A.M. No. 11838-Ret.

(Continued on next page)

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

PROHIBITIONS TO ENTITLEMENT TO PENSION

1. A retired Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or his/her surviving spouse receiving benefits of RA No. 9946 during the time that he/she is receiving said pension shall not appear as counsel before any court in any civil case wherein the government or any subdivision or instrumentality thereof is the adverse party, or in any criminal case wherein an incumbent or former office or employee of the government is accused of an offense committed in relation to his/her office, or collect any fee for his/her appearance in any administrative proceedings to maintain an interest to the Government, National, Provincial or municipal, or to any of its legally constituted offices.
2. The member of the Judiciary or his/her surviving spouse who assumes an elective public office, shall not, upon assumption of office and during his/her term, receive the monthly pension due to him/her.
3. The surviving spouse who remarries shall no longer be entitled to the survivorship benefit.

REQUIREMENTS AND PROCEDURES

The requirements and procedures for entitlement to and release of benefits under RA No. 9946, amending RA No. 910, shall be in accordance with the guidelines hereto attached as **Annex "A."**

FUNDING

The amount necessary for the initial implementation of RA No. 9946 shall be charged against the current year's savings of the respective courts from which the Justice or Judge retires. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

IMPLEMENTATION

The Office of Administrative Services and the Fiscal Management and Budget Office of the Supreme Court and the Office of Administrative Services and the Financial Management Office of the Office of the Court Administrator shall forthwith implement this.

All provisions of issuances inconsistent with the herein guidelines are hereby revoked.

These guidelines shall take effect upon its approval.

Issued this 3rd day of November 2010.

(Sgd.) RENATO C. CORONA
Chief Justice

Annex "A"

REQUIREMENTS AND PROCEDURES FOR ENTITLEMENT TO AND RELEASE OF RETIREMENT BENEFITS UNDER REPUBLIC ACT NO. 9946, AMENDING REPUBLIC ACT NO. 910

FOR SUPREME COURT JUSTICES:

I. REQUIREMENTS

A. Compulsory and Optional Retirement

1. Application for Retirement/Survivorship Benefits;
2. Birth Certificate and Marriage Contract (In the absence of a Birth Certificate: Affidavit of two disinterested persons attesting as to your Date of Birth and Certificate of Loss of Records from the Civil Registrar);
3. Certification of regular monthly salary and other emoluments;
4. Service Record from other government offices, if any, duly certified by official concerned and with proper notation of Leave of Absence with or without pay;
5. Bar Clearance from the Office of the Bar Confidant, Supreme Court;
6. Certification from the Office of the Bar Confidant as to Bar Examiner, if any;
7. Supreme Court Clearance;
8. Updated Sworn Statement of Assets and Liabilities;
9. Application for Provident Fund (Pag-Ibig);
10. Latest Supreme Court ID to be surrendered or letter-request to retain said ID; and
11. Duly accomplished Application for Leave (for Terminal Leave).

B. Disability Retirement

ITEMS 1-11, I.A, Plus

1. GSIS Disability Claim form (Part I and II)
2. All Medical Records in support of claim for Permanent Total Disability (to be indorsed to the Medical and Dental Services for evaluation, comment and recommendation)

C. Survivorship Applications/Death Claims

Survivorship Applications

ITEMS 1 to 11 plus

1. Death certificate authenticated by the National Statistics Office (NSO);
2. Marriage Contract authenticated by NSO;
3. Certified photocopy of 2 valid ID of claimant.

Death Claims

1. Death certificate authenticated by the NSO;
2. Certificate issued by the Clerk of Court, RTC, as to the Testate or Intestate proceedings on the estate of the deceased;
3. Proofs of Surviving Legal Heirs, to fill up spaces for legitimate, legally adopted, acknowledged natural children; indicate NONE in the absence of any children under any of the categories;

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

4. Affidavit of Guardianship (children minor age);
5. Birth Certificate of ALL CHILDREN, authenticated by NSO;
6. Affidavit as required under Article 105(b) of the Labor Code;
7. Certified photocopy of two valid ID of claimant.

II. PROCEDURES

1. All applications for retirement, except in cases of compulsory retirement, are to be submitted to the Court for approval.
2. In case of disability retirement, the application together with all the Medical Records and GSIS Disability Form (Part I & II), is referred to the Supreme Court Medical and Dental Services for evaluation, comment and recommendation; and
3. After completion of the signatures required in the Supreme Court clearance, a copy thereof shall be submitted to the Employee Welfare and Benefits Division (EWBD) for transmittal of the papers to the Cashier's Office.

FOR APPELLATE COURT JUSTICES:

I. REQUIREMENTS

A. Compulsory and Optional Retirement

1. Duly accomplished Application for Retirement;
2. NSO-issued copies of Birth Certificate and in its absence, Certification issued by the NSO as to non-availability of record of birth and Affidavit of two disinterested persons attesting to the applicant/claimant's correct date of birth;
3. NSO-issued copy of Marriage Contract;
4. Original copy of Service Record/s for service/s rendered with other government office/s, duly signed by the official concerned and with proper notation of leave of absence with or without pay, together with copy/ies of appointment/s and Clearance from previous employer/s in connection with his/her separation thereat;
5. CA/SB/CTA Clearance as to no pending criminal and administrative case and as to no money and property accountabilities;
6. **UPDATED** Statement of Assets and Liabilities;
7. Original and/or certified true copy of retirement/voucher, if previously retired;
8. Bar Clearance Certificate from the Office of the Bar Confidant, Supreme Court; and
9. Docket Clearance Certificate from the Legal Office, OCA, Supreme Court.

B. Disability Retirement

ITEMS 1-9, I.A, PLUS

Part I (**Insured's Statement**) and Part II (**Certificate of Attending Physician**) **TOGETHER** with **ALL** medical records in support of claim for disability retirement.

C. Retirement/Gratuity Benefits (Death Claims)

ITEMS 1-9, I.A, PLUS

1. NSO-issued copy of Birth Certificate of the surviving spouse; if retired justice is predeceased by the spouse, Death Certificate must likewise be submitted;

2. Certificate issued by the RTC Clerk of Court (**place of residence**) as to no Testate and Intestate proceedings filed against the estate of the deceased justice;
3. Proofs of Surviving Legal Heirs** (kindly put **NONE** or **N/A** in the column, where applicable);
4. NSO-issued copy/ies of Birth Certificate of **ALL** children of the deceased justice;
5. NSO-issued copy/ies of Marriage Contract of **married daughter/s** of the deceased justice;
6. Affidavit as required under Article 105** (b) of the Labor Code of the Philippines (**to be accomplished by the surviving spouse and children of legal age**);
7. Affidavit in compliance with PD No. 442** (to be accomplished by the surviving spouse for the minor children);
8. Affidavit of Guardianship** (for minor/mentally incompetent children of the deceased justice); and
9. NSO-issued copy of Advisory on Marriages.

D. Survivorship Applications/Claims

1. Duly accomplished **Application for Survivorship Benefits** attaching therein the most recent full body photo of surviving spouse holding the most recent front page of a broadsheet of national circulation and the original copy of the broadsheet front page held in photo;
2. NSO-issued Birth Certificate of Surviving Spouse and in its absence, Certification issued by the NSO as to non-availability of record of birth and Affidavit of two disinterested persons attesting to the correct date of birth;
3. NSO-issued Marriage Contract between deceased Justice and Surviving Spouse;
4. NSO-issued Advisory on Marriages;
5. Certification issued by the Presiding Justice in favor of the surviving spouse for purposes of identification; and
6. Barangay Certification attesting to claimant's residency.

II. PROCEDURES

1. All applications for retirement, except in cases of compulsory retirement, are to be submitted to the Court for approval. For optional or disability retirement, the application shall specify the date of effectivity thereof.
2. In case of disability retirement, the application together with the Medical Certificate and disability form Part I and II is referred to the Supreme Court Medical Services for evaluation, comment and recommendation.

FOR JUDGES

I. REQUIREMENTS

A. Compulsory and Optional Retirement

1. Duly accomplished Application for Retirement;
2. NSO-issued copies of Birth Certificate and in its absence, Certification issued by the NSO as to non-availability

(Continued on next page)

** Certified true copy of at least one current identification document issued by an official agency bearing the photograph and signature of the affiant and witnesses, such as but not limited to passport, driver's license, PRC ID, NBI Clearance, Postal ID, voter's ID, GSIS e-card, SSS card, Philhealth card, Senior Citizen card or any government office ID **MUST** be enclosed.

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

of record of birth and Affidavit of two disinterested persons attesting to the applicant/claimant's correct date of birth;

3. NSO-issued copy of Marriage Contract;
4. Original copy of Service Record/s for service/s rendered with other government office/s, duly signed by the official concerned and with proper notation of leave of absence with or without pay, together with copy/ies of appointment/s and Clearance from previous employer/s in connection with his/her separation thereat;
5. Clearance issued by the Clerk of Court (OCC), from the Office of the Executive Judge exercising territorial jurisdiction, as to no pending criminal and administrative case;
6. Clearance issued by the Clerk of Court (OCC) as to no money and property accountabilities, **DULY NOTED** by the Treasurer of the Local Government Unit where the court is situated;
7. **UPDATED** Statement of Assets and Liabilities;
8. Certification of Accountability/Non-Accountability for Money and Property issued by the Clerk of Court;
9. List of cases submitted for decision/resolution and list of cases pending trial OR authenticated copy of monthly report of cases most recently submitted to the Court Management Office;
10. Joint Certification by the retiring Judge and the [Branch] Clerk of Court, that the former has no pending cases submitted for decision or incidents for resolution beyond the reglementary period as of the date of retirement;
11. Latest Office Identification Card to be surrendered pursuant to A.O. No. 11-96, series of 1996;
12. Certificate issued by the [Branch] Clerk of Court attesting to the retiring judge's last day of service*;
13. Duly accomplished Terminal Leave Application (the term Terminal Leave refers to the payment of the money value of earned leave credits and does not necessarily mean going on actual leave. Any leave incurred [**except forfeitable leave**] prior to retirement shall be **DEDUCTED** from the earned leave credits diminishing its monetary value);
14. Original and/or certified true copy of retirement/voucher, if previously retired;
15. Bar Clearance Certificate as to pending case from the Office of the Bar Confidant, Supreme Court; and
16. Docket Clearance Certificate as to pending administrative case from Legal Office, OCA, Supreme Court.

B. Disability Retirement

ITEMS 1-16, PLUS

Part I (**Insured's Statement**) and Part II (**Certificate of Attending Physician**) **TOGETHER** with **ALL** medical records in support of claim for disability retirement;

C. Retirement/Gratuity Benefits (Death Claims)

ITEMS 1-16, PLUS

1. NSO-issued copy of Birth Certificate of the surviving spouse; if retired judge is predeceased by the spouse, Death Certificate must likewise be submitted;
2. Certificate issued by the RTC Clerk of Court (**place of residence**) as to no Testate and Intestate proceedings filed against the estate of the deceased judge;
3. Proofs of Surviving Legal Heirs** (kindly put **NONE** or **N/A** in the column, where applicable);
4. NSO-issued copy/ies of Birth Certificate of **ALL** children of the deceased judge;
5. NSO-issued copy/ies of Marriage Contract of **married daughter/s** of the deceased judge;
6. Affidavit as required under Article 105** (b) of the Labor Code of the Philippines (**to be accomplished by the surviving spouse and children of legal age**);
7. Affidavit in compliance with PD No. 442** (to be accomplished by the surviving spouse for the minor children);
8. Affidavit of Guardianship** (for minor/mentally incompetent children of the deceased judge); and
9. NSO-issued copy of Advisory on Marriages.

D. Survivorship Applications/Claims

1. Duly accomplished **Application for Survivorship Benefits** attaching therein the most recent full body photo of surviving spouse holding the most recent front page of a broadsheet of national circulation and the original copy of the broadsheet front page held in photo;
2. NSO-issued Birth Certificate of Surviving Spouse and in its absence, Certification issued by the NSO as to non-availability of record of birth and Affidavit of two disinterested persons attesting to the correct date of birth;
3. NSO-issued Marriage Contract between deceased Judge and Surviving Spouse;
4. NSO-issued Advisory on Marriages;
5. Personal appearance, if possible, by the Surviving Spouse before the RTC Executive Judge exercising jurisdiction over his/her place of residence for purposes of identification;
6. Certification issued by the Executive Judge in favor of the surviving spouse attesting to his/her appearance;
7. Barangay Certification attesting to claimant's residency; and
8. Duly accomplished Survey Form (Yearly Updating) attaching therein the most recent full body photo of the surviving spouse holding the most recent front page of a broadsheet of national circulation and the original copy of the broadsheet front page held in photo.

E. Pension

1. Notice of Pension Adjustment or Certification issued by the Office of Administrative Services, OCA, Supreme Court; and

* Last day of service of a compulsorily retired Judge is a day before his/her 70th birthday.

** Certified true copy of at least one current identification document issued by an official agency bearing the photograph and signature of the affiant and witnesses, such as but not limited to passport, driver's license, PRC ID, NBI Clearance, Postal ID, voter's ID, GSIS e-card, SSS card, Philhealth card, Senior Citizen card or any government office ID **MUST** be enclosed.

ADMINISTRATIVE CIRCULAR NO. 81-2010 (continued)

2. Duly Accomplished Survey Form (Yearly Updating) attaching therein the most recent full body photo of the pensioner judge holding the most recent front page of a broadsheet of national circulation and the original copy of the broadsheet front page held in photo.

II. PROCEDURES

1. All applications for retirement, except in cases of compulsory retirement, are to be submitted to the Court for approval. For optional or disability retirement, the application shall specify the date of effectivity thereof.
2. In case of disability retirement, the application together with the Medical Records and Disability Form Part I and II is referred to the Supreme Court Medical Services for evaluation, comment and recommendation.
3. Upon approval of the retirement application/claim, and after completion of the signatures required in the SC Clearance, the documents for retirement are transmitted to the Finance Division, Financial Management Office, OCA.

ADMINISTRATIVE CIRCULAR NO. 66-2008

The guidelines for the release of retirement benefits under Administrative Circular No. 66-2008 (Guidelines on the Procedure for the Release of Retirement Gratuity and Terminal Leave Benefits of Deceased Members, Officials and Employees of the Judiciary), dated July 1, 2008, insofar as it is consistent with herein guidelines, shall continue to apply for the release of the benefits under RA No. 910, as amended by RA No. 5095 and RA No. 9946.



OCA CIRCULAR NO. 118-2010

TO: ALL JUDGES AND PERSONNEL OF THE LOWER COURTS

SUBJECT: POLICY ON UNDERTIME AND HALF-DAY ABSENCE

For the information and guidance of all concerned, quoted hereunder is the pertinent portion of Civil Service Commission (CSC) Memorandum Circular No. 16, s. 2010, to wit:

Pursuant to CSC Resolution No. 10-1357 dated July 6, 2010, the Commission resolves that undertime is not classified as tardiness. However, due to the inimical effect of undertime to public service, which cannot be countenanced, the following guidelines on Undertime is hereby promulgated, as follows:

1. Any officer or employee who incurs undertime, regardless of the number of minutes/hours, 10 times a month for at least two months in a semester shall be liable for Simple Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, as the case may be; and
2. Any officer or employee who incurs undertime, regardless of the number of minutes/hours, 10 times a month for at least two consecutive months during the year shall be liable for Simple Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, as the case may be.

Likewise, quoted hereunder is Civil Service Commission Memorandum Circular No. 17, s. 2010, to wit:

Pursuant to CSC Resolution No. 10-1358 dated July 6, 2010, the Commission resolves to promulgate the following guidelines on Half-Day Absence, as follows:

1. Any officer or employee who is absent in the morning is considered to be tardy and is subject to the provisions on Habitual Tardiness; and
2. Any officer or employee who is absent in the afternoon is considered to have incurred undertime subject to the provisions on Undertime."

The Civil Service Commission further resolved that these guidelines shall be prospective in application and shall take effect 15 days after its publication in a newspaper of general circulation.

CSC Resolution Nos. 10-1357 and 10-1358 were published in the Philippine Daily Inquirer on July 28, 2010.

September 3, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator



OCA CIRCULAR NO. 124-2010

TO: ALL ASSISTING JUDGES

SUBJECT: SUBMISSION OF MONTHLY ACCOMPLISHMENT REPORT OF CASE DISPOSAL

All assisting judges are hereby ordered to submit a monthly accomplishment report of their case disposals in the court where they have been designated as such.

The monthly accomplishment reports shall be filed within the first five days of the succeeding month and shall be sent by registered mail to the Office of the Court Administrator and by email to oca@sc.judiciary.gov.ph. In both instances, the assisting judges should get confirmation receipt of their regular mail and email.

The above required monthly reports are in addition to the regular monthly reports being submitted by the courts.

September 9, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

OCA CIRCULAR NO. 136-2010

TO: ALL JUDGES AND COURT PERSONNEL OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT: REITERATION OF CIRCULAR NO. 62-2001 (RE: CONDUCT OF FLAG-RAISING AND FLAG-LOWERING CEREMONIES)

Pursuant to the Resolution of the Honorable First Division dated July 7, 2010, in Administrative Matter No. 10-5-173-RTC (*Report and Recommendation on the Absences of Court Employees During Flag Ceremonies, submitted by Atty. Voltaire B. Garcia, Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Bambang, Nueva Vizcaya*), directing the Office of the Court Administrator to re-circularize the policy on attendance during the flag ceremony, all Judges and court personnel of the first and second level courts are hereby **REMINDED** to **strictly comply** with the provisions of Circular No. 62-2001 (Re: Conduct of Flag-Raising and Flag-Lowering Ceremonies), to wit:

Republic Act No. 8491 otherwise known as the "Flag and Heraldic Code of the Philippines" prescribes the national flag, anthem, motto, coat-of-arms and other heraldic items and devices of the Philippines. The relevant provisions of the said law provide, to wit:

SEC. 18. All government offices and educational institutions shall henceforth observe the flag-raising ceremony every Monday morning and the flag-lowering ceremony every Friday afternoon. The ceremony shall be simple and dignified and shall include the playing or singing of the Philippine National Anthem.

x x x x

SEC. 21. During the flag-raising ceremony, the assembly shall stand in formation facing the flag. At the moment the first note of the anthem is heard, everyone in the premises shall come to attention; moving vehicles shall stop. All persons present shall place their right palms over their chests, those with hats shall uncover; while those in military, scouting, security guard, and citizens military training uniforms shall give the salute prescribed by the regulations which salute shall be completed upon the last note of the anthem.

The assembly shall sing the Philippine National Anthem, accompanied by a band, if available and at the first note, the flag shall be raised briskly.

The same procedure shall be observed when the flag is passing in review or on parade.

SEC. 22. During the flag-lowering, the flag shall be lowered solemnly and slowly so that the flag shall be down the mast at the sound of the last note of the anthem. Those in assembly shall observe the same deportment or shall observe the same behavior as for the flag-raising ceremony.

All Executive Judges shall supervise the holding of the flag-raising and flag-lowering ceremonies in their respective Hall of Justice buildings or courthouses and shall ensure the attendance of all judges and court personnel in the rites. A report on the absentees in both ceremonies for every month shall be submitted to the Office of the Court Administrator within the first 10 days of the succeeding month.

For strict compliance.

October 5, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator

**OCA CIRCULAR NO. 138-2010**

TO: ALL JUDGES OF FAMILY COURTS AND SINGLE SALA SECOND LEVEL COURTS

SUBJECT: DETENTION IN JAILS OF CHILDREN IN CONFLICT WITH THE LAW

The Commission on Human Rights (CHR) has invited the attention of this Office relative to its Independent Report on the Convention of the Rights of the Child concerning detention in jails and police precincts of Children in Conflict with the Law (CICL), reporting that during its official visits conducted from January 2008 to March 2009, there have been 80 children found in 13 jails and the national penitentiary pending trial or hearing of their cases, and that there were some trial courts who exhibited reluctance in ordering the release of the Children in Conflict with the Law from jails. For this purpose, judges must be mindful that at present the problems of congestion and inadequate facilities have continued to beleaguer many of the detention centers and jails nationwide.

Please be **REMINDED** that, to promote the best interests of the child, the Court passed a Resolution dated November 24, 2009, in A.M. No. 02-1-18-SC effective December 1, 2009, approving the Revised Rule on Children in Conflict with the Law, explicitly prohibiting detention of Children in Conflict with the Law in jails pending trial or hearing of their cases and directing their mandatory release from detention, to wit:

(Continued on next page)

OCA CIRCULAR NO. 138-2010 (continued)

SEC. 25. Release of Children on Recognizance to the Parents, Guardian, Custodian or Nearest Relative.

— The release of a child from custody during the pendency of the case involving a non-serious offense as defined in Section 4(u) of this Rule may be ordered by the court only after a hearing for that purpose, and upon favorable recommendation of the social worker assigned to the child, with the conformity of the public prosecutor and the private complainant. The child shall be released to the custody of a willing and responsible mother or father, or appropriate guardian or custodian or in their absence, the nearest relative, who shall be responsible for the child's good behavior and appearance in court whenever required.

No child shall be ordered detained in jail pending trial of hearing of the child's case, subject to the provisions of this Rule.

SEC. 26. Commitment and Transfer to a Youth Rehabilitation Center. A child charged with a non-serious offense as defined in Section 4 (u) of this Rule, unless released on bail or recognizance, may be transferred to a youth detention home or rehabilitation center or other appropriate facility such as the Department of Social Welfare and Development which shall ensure the appearance of the child in court.

In the absence of a youth detention home established by the local government pursuant to Section 8 of the Family Courts Act, in the city or municipality where the child resides or, a local rehabilitation center, recognized by the government in the province, city or municipality within the jurisdiction of the court, or the Department of Social Welfare and Development or other appropriate local rehabilitation center, the youth shall be placed under the care of a provincial, city or municipal jail which shall ensure the appearance of the child in court when so required. (Emphasis supplied)

For strict compliance.

October 5, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ

Court Administrator



OCA CIRCULAR NO. 140-2010

TO: ALL JUDGES AND COURT PERSONNEL OF THE REGIONAL TRIAL COURT, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS AND THE MUNICIPAL CIRCUIT TRIAL COURTS

SUBJECT: ADDITIONAL GUIDELINES IN THE IMPLEMENTATION OF ADMINISTRATIVE CIRCULAR NO. 51-2010

On March 22, 2005, the Court issued Administrative Circular No. 15-2005 which provides the guidelines for local and foreign travels of officials

and employees of the Judiciary. The Administrative Circular provides for fixed travel rates for travel beyond 50 kilometer radius. However, these travel rates are no longer realistic considering the high costs of hotel and lodging accommodations as well as expenses for meals and the prevailing rates of transportation. Thus, the Constitutional Fiscal Autonomy Group (CFAG) adopted a uniform policy on local travel and thus, the need to amend the local travel guidelines under Administrative Circular No. 15-2005. On July 7, 2010, the Court issued Administrative Circular No. 51-2010 amending certain provisions of Administrative Circular No. 15-2005.

The travel allowance of officials and employees of the Judiciary shall be increased from Eight Hundred Pesos (P800) a day to **ONE THOUSAND FIVE HUNDRED PESOS (P1,500) per day**, to be apportioned as follows:

Particulars	Percentage	Amount
Hotel/Lodging	50 percent	P 750
Meals at P150.00 per meal	30 percent	P 450
Incidental Expenses	20 percent	P 300
TOTAL	100 percent	P1,500

Full travel expense shall be allowed only in case of absence from the permanent official station for one full day or more.

Particulars	Cost of Meal	Incidental Expenses	Hotel or Lodging	Total
Departure from permanent station before 12:00 noon	P 450	P 300	P 750	P1,500
Departure from permanent station after 12:00 noon	P 150	P 300	P 750	P1,200
Arrival at permanent station before 12:00 noon	P 150	P 300	0	P 450
Arrival at permanent station after 12:00 noon	P 300	P 300	0	P 600

As an additional requirement for the implementation of the increased rate of travel allowance, claims for reimbursement of traveling expenses shall be accompanied by a **CERTIFICATION UNDER OATH** by the claimant as to the kilometer distance between the official station and residence, and the place of destination. Should the distance

OCA CIRCULAR NO. 140-2010 (continued)

between destinations be less than 50 kilometers or no certification was submitted, the rate under Administrative Circular No. 15-2005 shall be followed.

All provisions of Administrative Circular No. 15-2005, other circulars, orders or resolutions which are not inconsistent with the provisions of Administrative Circular No. 51-2010 shall remain in full force and effect.

Due to budgetary constraints, the implementation of the increased rate of travel allowance for the lower courts shall **take effect October 2010**.

October 7, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator



OCA CIRCULAR NO. 151-2010

TO: ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS

SUBJECT: SPEEDY DISPOSITION OF CASES FOR VIOLATIONS OF REPUBLIC ACT NO. 9208 (THE ANTI-TRAFFICKING IN PERSONS ACT OF 2003) OR TRAFFICKING IN PERSONS CASES

Republic Act No. 9208 was enacted in fulfillment of our international obligation to prevent, suppress, and punish trafficking in persons, especially of women and children.

Section 16, Article III of the 1987 Philippine Constitution mandates that "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

Accordingly, Judges are directed to expedite the disposition of cases involving violation of RA No. 9208.

Where practicable and unless special circumstances require otherwise, cases involving violation of RA No. 9208 shall be heard continuously with hearing dates spaced not more than two weeks apart. Unnecessary delay should be avoided, strictly taking into consideration the Speedy Trial Act and SC Circular No. 38-98 dated August 11, 1998.

In this regard, you are all directed to submit to the Statistical Reports Division, Court Management Office, Office of the Court Administrator: (a) a list of cases involving trafficking in persons and their status

and (b) copies of orders/decisions related thereto. More importantly, pending human trafficking cases should be given priority and decided with dispatch, while newly raffled cases should be heard and decided within 180 days from arraignment of the accused.

To monitor compliance therewith and the progress of human trafficking cases, you are all required to submit a report on the matter on or before November 30, 2010.

For strict compliance.

October 26, 2010.

(Sgd.) JOSE MIDAS P. MARQUEZ
Court Administrator



OCA CIRCULAR NO. 158-2010

TO: ALL JUDGES AND CLERKS OF COURT OF THE FIRST AND SECOND LEVEL COURTS STATIONED IN AREAS WHERE THERE ARE PHILIPPINE MEDIATION CENTER (PMC) UNITS

SUBJECT: REITERATION OF ADMINISTRATIVE CIRCULAR NO. 20-2002 DATED APRIL 24, 2002

WHEREAS, the Court has promulgated Administrative Circular No. 20-2002 dated April 24, 2002, mandating Judges and Clerks of Court to refer certain cases for mediation where there are Philippine Mediation Center Units;

WHEREAS, said Administrative Circular has been reiterated in OCA Circular No. 57-2007 dated May 24, 2007;

WHEREAS, it has come to the attention of this Office that despite the aforementioned issuances, Judges of first and second level courts *have not been regularly* referring cases for mediation;

WHEREAS, there is a need to further reiterate the provisions of said Administrative Circular particularly that portion pertaining to those cases referable to mediation;

WHEREFORE; the following portion of Administrative Circular No. 20-2002 dated April 24, 2002, on referral of cases for mediation is hereby reiterated anew for the guidance of all Judges and Clerks of Court:

1. Conduct a monthly inventory of cases in their dockets referable to mediation. Pursuant to the Court's Second Revised Guidelines, dated October 16, 2001, the cases that may be referred are as follows:

(Continued on page 6)

3rd Floor, Supreme Court Centennial Building
Padre Faura Street corner Taft Avenue, Manila 1000
Philippines

2011 Upcoming PHILJA Events

- Chief Justice Renato C. Corona First Distinguished Lecture
"Media and the Courts"
January 13, Manila
- Roundtable Discussion on Anti-Trafficking in Persons
January 21, Pasay City
- Seminar-Workshop on the Rule of Procedure for
Small Claims Cases – Region 5 (Batch 1)
January 25, Naga City
- Judicial Settlement Conference for Judges on
Judicial Dispute Resolution (JDR) (Skills-Based Course)
January 25-28, Manila
- Seminar-Workshop on the Rule of Procedure for
Small Claims Cases – Region 5 (Batch 2)
January 27, Naga City
- ASEAN Awareness Program on Trafficking in
Persons for Judges and Prosecutors
January 27-28, Naga City
- ASEAN Awareness Program on Trafficking in
Persons for Judges and Prosecutors
January 31- February 1, Dumaguete City
- Tenth Multi-Sectoral Seminar-Workshop on
Agrarian Justice for the Province of Negros Occidental
February 2-4, Bacolod City
- 59th Orientation Seminar for Newly Appointed Judges
February 9-18, Manila
- Competency Enhancement Training for Judges and Court
Personnel Handling Child Abuse and Trafficking Cases
February 22-24, Pasay City
- Seminar-Workshop on the Rule of Procedure for
Small Claims Cases – Region 2
February 24, Pasay City
- Resource Persons Discussion Workshop on the Capacity
Building Seminar for Environmental Law and the Rules of
Procedure for Environmental Cases
February 24-25, Manila
- Final Validation Workshop and Writeshop on the Helpbook
on Human Rights Issues: Extralegal Killings and Enforced
Disappearances
February 25-27, Aklan
- Forum on the Philippine Membership in the
Permanent Court of Arbitration and
International Dispute Resolution
March 2, Quezon City
- 16th National Convention and Seminar of the
Philippine Women Judges Association (PWJA)
March 2-4, Cebu City
- 22nd Pre-Judicature Program
March 7-18, Manila
- Information Dissemination Through a Dialogue
between Barangay Officials of the City of San Fernando
and the Municipalities of Pampanga and Court Officials
March 10, Pampanga
- Seminar-Workshop on the Rule of Procedure
for Small Claims Cases for Visayas and Mindanao
March 16, Cebu City
- Seminar on Speedy Trial and Disposition of Cases
March 18, Cebu City
- Personal Security Training for Judges
(NCR, Regions 3 and 4)
March 22-24, Quezon City
- Information Dissemination Through a
Dialogue between Barangay Officials of the
City of Santiago, Isabela, and Court Officials
March 25, Santiago City
- Information Dissemination Through a
Dialogue between Barangay Officials
of the Cities of Cauayan and Roxas, Isabela, and Court Officials
March 28, Cauayan City, Isabela
- Orientation Seminar-Workshop on
Comparative Analysis between the
Family Code and the Code of Muslim Personal Laws
March 28-30, Manila
- Information Dissemination Through a
Dialogue between Barangay Officials of the
Municipality of Ilagan, Isabela, and Court Officials
March 29, Ilagan, Isabela
- Seminar-Workshop on the Special Rules of Court
on Alternative Dispute Resolution
March 29-31, Baguio City