

OCA CIRCULAR NO. 137-2009, October 07, 2009

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TO:

THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI' A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARI'A CIRCUIT COURTS

SUBJECT:

EXEMPTION FROM THE PAYMENT OF LEGAL FEES OF THE CLIENTS OF THE NATIONAL COMMITTEE ON LEGAL AID (NCLA) AND OF THE LEGAL AID OFFICES IN THE LOCAL CHAPTERS OF THE INTEGRATED BAR OF THE PHILIPPINES (IBP)

For the information and guidance of all concerned, the Supreme Court En Banc, in a Resolution dated August 28, 2009, in A.M. No. 08-I I-7-SC, (Re: Request of National Committee on Legal Aid to Exempt Legal Aid Clients From Paying Filing, Docket and Other Fees), APPROVED the Rule on the Exemption From the Payment of Legal Fees of the Clients of the National Committee on Legal Aid and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines [A.M. NO. 08-I1-7-SC (IRR)], the pertinent provisions thereof are quoted as follows:

ARTICLE I

Purpose

Section 1. Purpose, — The Rule is issued for the purpose of enforcing the right of free access to courts by the poor guaranteed under Section 11, Article III of the Constitution. It is intended to increase the access to justice by the poor by exempting from the payment of legal fees incidental to instituting an action in court, as an original proceeding or on appeal, qualified indigent clients of the NCLA and of the legal aid offices in local IBP chapters nationwide.

ARTICLE II

Definition of Terms

Section 1. Definition of important terms. -- For purposes of this Rule and as used herein, the following terms shall be understood to be how they are defined under this Section:

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(d) "Legal fees" refers to the legal fees imposed under Rule 141 of the Rules of Court as a necessary incident of instituting an action in court either as an original proceeding or on appeal. Tn particular, it includes filing or

docket fees, appeal fees, fees for issuance of provisional remedies, mediation fees, sheriffs fees, stenographer's fees (that is fees for transcript of stenographic notes) and commissioner's fees;

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ARTICLE II

Coverage

Section 1. Persons qualified for exemption from payment of legal fees. — Persons who shall enjoy the benefit of exemption from the payment of legal fees incidental to instituting an action in court, as an original proceeding or on appeal, granted under this Rule shall be limited only to clients of the NCLA and the chapter legal aid offices.

The said clients shall refer to those indigents qualified to receive free legal aid service from the "NCLA and the chapter legal aid offices. Their qualifications shall be determined based on the tests provided in this Rule.

Section 2. Persons not covered by the Rule. — The following shall be disqualified from the coverage of this Rule. Nor may they be accepted as clients by the NCLA and the chapter legal aid offices.

(a)

Juridical persons; except in cases covered by developmental legal aid or public interest causes involving juridical entities which are non-stock, non-profit organizations, non-governmental organizations and people's organization whose individual members will pass the means test provided in this Rule;

(b)

Persons who do not pass the means and merit tests;

(c)

Parties already represented by a counsel de pane:

(d)

Owners or lessors of residential lands or buildings with respect to the filing of collection or unlawful detainer suits against their tenants; and

(e)

Persons who have been clients of the NCLA or chapter legal aid office previously in a case where the NCLA or chapter legal aid office withdrew its representation because of a falsity in the application or in any of the affidavits supporting the said application

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ARTICLE IV

Tests of Indigency :

Section 1. Tests for determining who may be clients of the NCLA and the legal aid offices in local IBP chapters. - The NCLA or the chapter legal aid committee, as the case may be, shall pass upon requests for legal aid by the combined application of the means and merit tests and the consideration of other relevant factors provided for in the following sections.

Section 2. Means test; exception. - (a) This test shall be based on the following criteria: (i) the applicant and that of his immediate family must have a gross monthly income that does not exceed an amount double the monthly minimum wage of an employee in the place where the applicant resides and (ii) he does not own real property with a fair market value as stated in the current tax declaration of more than Three Hundred Thousand (P300,000.00) Pesos.

In this connection, the applicant shall execute an affidavit of indigency (printed at the back of the application form) stating that he and his immediate family do not earn a gross income abovementioned, nor own any real property with the fair value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the applicant's affidavit. The latest income tax return and/or current tax. declaration- if any, shall be attached to the applicant's affidavit. -

(b) The means test shall not be applicable to applicants who fall under the developmental legal aid program such as overseas workers, fisherfolk, farmers, laborers, indigenous cultural communities, women, children and other disadvantaged groups.

Section 3. Merit Test. — A case shall be considered meritorious if an assessment of the law and evidence at hand discloses that the legal service will be in aid of justice or in the furtherance thereof, taking into consideration the interests of the party and those of society. A case fails this test if, after consideration of the law and evidence presented by the applicant, it appears that it is intended merely to harass or injure the opposite party or to work oppression or wrong.

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ARTICLE VIII

Effectivity

Section 1. Effectivity. - The Rule shall become effective after fifteen days following its publication in a newspaper of general circulation.

The Rule was published in the September 12, 2009 issue of the Philippine Daily Inquirer.

October 7, 2009

JOSE P. PEREZ

Court Administrator

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