

OCA CIRCULAR NO. 140-2011, October 05, 2011

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TO :

ALL EXECUTIVE/ PRESIDING JUDGES, CLERKS OF COURT/ACCOUNTABLE OFFICERS, BRANCH CLERKS OF COURT, SHERIFFS, PROCESS SERVERS AND OTHER COURT PERSONNEL AUTHORIZED TO SERVE COURT PROCESSES

SUBJECT :

REITERATION OF SEC. 10 PARAGRAPHS 2, 3 and 4 OF ADMINISTRATIVE MATTER NO. 04-2-04-SC (RE: RULE 141, LEGAL FEES) AND AMENDED ADMINISTRATIVE CIRCULAR NO. 35-2004 (RE: GUIDELINES IN THE ALLOCATION OF LEGAL FEES)

It has been observed that despite issuances by the Court mandating the deposit of additional amount of One Thousand Pesos (1,000.00) with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case, many lower courts still fail to collect the subject amount as deduced from the monthly report of collections submitted to the Office of the Court Administrator (OCA) and several reports of the financial audit teams of the OCA.

Henceforth, all concerned officials and personnel of the lower courts are hereby REMINDED to ensure that the following provision of Administrative Matter No. 04-2-04-SC (Re: Rule 141, Legal Fees) and Amended Administrative Circular No. 35-2004 (Re: Guidelines in the Allocation of Legal Fees) is strictly observed:

"Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes.-

"IN ADDITION TO THE FEES HEREINABOVE FIXED, THE AMOUNT OF ONE THOUSAND (P1,000.00) PESOS SHALL BE DEPOSITED WITH THE CLERK OF COURT UPON FILING OF THE COMPLAINT TO DEFRAY THE ACTUAL TRAVEL EXPENSES OF THE SHERIFF, PROCESS SERVER OR OTHER COURT-AUTHORIZED PERSONS IN THE SERVICE OF SUMMONS, SUBPOENA AND OTHER COURT PROCESSES THAT WOULD BE ISSUED RELATIVE TO THE TRIAL OF THE CASE. IN CASE THE INITIAL DEPOSIT OF ONE THOUSAND (P1,000.00) PESOS IS NOT SUFFICIENT, THEN THE PLAINTIFF OR PETITIONER SHALL BE REQUIRED TO MAKE AN ADDITIONAL DEPOSIT. THE SHERIFF, PROCESS SERVER OR OTHER COURT-AUTHORIZED PERSON SHALL SUBMIT TO THE COURT FOR ITS APPROVAL A STATEMENT OF THE ESTIMATED TRAVEL EXPENSES FOR SERVICE OF SUMMONS AND COURT PROCESSES. ONCE APPROVED, THE CLERK OF COURT SHALL RELEASE THE MONEY TO SAID SHERIFF OR PROCESS SERVER. AFTER SERVICE, A STATEMENT OF LIQUIDATION SHALL BE SUBMITTED TO THE COURT FOR APPROVAL. AFTER RENDITION OF JUDGMENT BY THE COURT, ANY EXCESS FROM THE DEPOSIT SHALL BE RETURNED TO THE PARTY WHO MADE THE DEPOSIT.

IN CASE A REQUEST TO SERVE THE SUMMONS AND OTHER PROCESSES IS MADE TO THE CLERK

OF COURT AND EX-OFFICIO SHERIFF WHO HAS JURISDICTION OVER THE PLACE WHERE THE DEFENDANT OR THE PERSON SUBJECT OF THE PROCESS RESIDES, A REASONABLE AMOUNT SHALL BE WITHDRAWN FROM SAID DEPOSIT BY THE CLERK OF THE COURT ISSUING THE PROCESS FOR THE PURCHASE OF A POSTAL MONEY ORDER TO COVER THE ACTUAL EXPENSES OF THE SERVING SHERIFF.

With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. THE LIQUIDATION SHALL BE APPROVED BY THE COURT. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. "

5 October 2011.

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Court Administrator

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