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B. JURISDICTION

- JURISDICTION IN CIVIL CASES

The Regional Trial Courts exercise exclusive original jurisdiction in the following civil cases:[1]

- 1.1. Actions in which the subject of litigation is incapable of pecuniary estimation;
- 1.2. Actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds twenty thousand pesos (P20,000.00), or for civil actions in Metro Manila, where such value exceeds fifty thousand pesos (P50,000.00), except actions for forcible entry and unlawful detainer;
- 1.3. Actions in admiralty and maritime jurisdiction where the demand or claim exceeds two hundred thousand pesos (P200,000.00) or, in Metro Manila, where such demand or claim exceeds four hundred thousand pesos (P400,000.00);
- 1.4. Matters of probate, both testate and intestate, where the gross value of the estate exceeds two hundred thousand pesos (P200,000.00) or, in probate matters in Metro Manila, where such gross value exceeds four hundred thousand pesos (P400,000.00);
- 1.5. Actions involving the contract of marriage and marital relations (now under the jurisdiction of the Family Court, *infra*);
- 1.6. Cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions;
- 1.7. Civil actions and special proceedings falling within the exclusive original jurisdiction of the Juvenile and Domestic Relations Court (now Family Court, *infra*) and the Court of Agrarian Relations as now provided by law; and
- 1.8. Other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs, or the value of the property in controversy exceeds two hundred thousand pesos (P200,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items, exceeds four hundred thousand pesos (P400,000.00).

However, in cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the Court.[2]

- JURISDICTION IN CRIMINAL CASES

The Regional Trial Courts exercise exclusive original jurisdiction in criminal cases not within the exclusive jurisdiction of any court, tribunal, or body.[3] These include:

2.1. Offenses punishable with imprisonment exceeding six (6) years irrespective of the fine,[4] except those falling within the exclusive original jurisdiction of the Sandiganbayan where the accused are occupying positions corresponding to salary grade "27" and higher;[5]

2.2. Criminal cases where the only penalty provided by law is a fine exceeding four thousand pesos (P4,000.00),[6] except offenses involving damage to property through criminal negligence which are under the exclusive jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts irrespective of the amount of the imposable fine;[7]

2.3. Violations of the Dangerous Drugs Act of 1992, as amended;[8]

2.4. Intellectual property rights violations; [9]

2.5. Violations of the Omnibus Election Code, except those relating to the offense of failure to register or failure to vote; [10]

2.6. Libel cases;[11]

2.7. Cases of money laundering committed by private persons, except those in conspiracy with public officers which fall under the jurisdiction of the Sandiganbayan.[12]

3. CONCURRENT JURISDICTION

3.1. With the Supreme Court and Court of Appeals

The Regional Trial Courts have original concurrent jurisdiction with the Supreme Court and Court of Appeals in the following cases:

3.1.1. Petitions for issuance of writs of certiorari, prohibition and mandamus against lower courts or bodies.[13] 3.1.2. Petitions for quo warranto and habeas corpus.[14]

3.2. With the Supreme Court –

The Regional Trial Courts have original concurrent jurisdiction with the Supreme Court in actions affecting ambassadors and other public ministers and consuls.[15]

4. APPELLATE JURISDICTION

The Regional Trial Courts exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, Municipal Trial Courts in Cities and Municipal Circuit Trial Courts, in their respective territorial jurisdictions.[16]

5. FAMILY COURTS

The Family Courts shall have exclusive original jurisdiction over the following cases: [17]

5.1. Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense;

5.2. Petitions for guardianship, custody of children, habeas corpus in relation to the latter;

- 5.3. Petitions for adoption of children and the revocation thereof;
- 5.4. Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains;
- 5.5. Petitions for support and/or acknowledgment;
- 5.6. Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the "Family Code of the Philippines;"
- 5.7. Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Pres. Decree No. 603, Executive Order No. 56 (series of 1986), and other related laws;
- 5.8. Petitions for the constitution of the family home;
- 5.9. Cases against minors under the Dangerous Drugs Act, as amended;
- 5.10. Violations of Rep. Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act," as amended by Rep. Act No. 7658;
- 5.11. Cases of domestic violence against –
 - 5.11.1. Women – which are acts of gender-based violence that result, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman's personhood, integrity and freedom of movement; and
 - 5.11.2. Children – which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence and discrimination and all other conditions prejudicial to their development.

If any question involving any of the above matters should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court.

6. SPECIAL COURTS

6.1. Heinous Crimes Cases

Under Adm. Order No. 104-96, as amended by Circular No. 31-97, some branches of the Regional Trial Courts are designated exclusively to try and decide cases of kidnapping, robbery in band, robbery committed against a banking or financial institution, violation of Anti-Carnapping Act of 1972, as amended, and other heinous crimes committed within their respective territorial jurisdictions.

6.2. Intellectual Property Rights Violations

Pursuant to Adm. Order No. 104-96, violations of intellectual property rights such as, but not limited to, violation of Art. 188 of the Rev. Penal Code (substituting and altering trademarks, trade names, or service marks), Art. 189 of the Rev. Penal Code (unfair competitions, fraudulent registration of trademarks, trade names, or service marks, fraudulent designation of origin and false description), Pres. Decree No. 49 (protection of intellectual property rights), Pres. Decree No. 87 (an Act creating the Video gram Regulatory Board), Rep. Act No. 165, as amended (the Patent Law), and Rep. Act No. 166, as amended (the Trademark Law) shall be tried by the Regional Trial Courts in accordance with the established raffle scheme except those covered by Adm. Order No. 113-95 dated

October 2, 1995 in which case, the designated Regional Trial Courts shall continue to observe the provisions therein.

6.3. SEC-related Cases

In A.M. No. 00-11-03-SC, the Supreme Court issued En Banc Resolution dated November 21, 2000 designating certain branches of the Regional Trial Courts to try and decide cases formerly cognizable by the Securities and Exchange Commission enumerated in Sec. 5 of Pres. Decree No. 902-A arising within their territorial jurisdictions with respect to the National Capital Judicial Region and within the respective provinces in the First to Twelfth Judicial Regions.

Sec. 5.2 of the Securities Regulation Code (Rep. Act No. 8799) transfers to the appropriate Regional Trial Court the original jurisdiction over the following cases:

6.3.1. Cases involving devices or schemes employed by, or any acts of, the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Securities and Exchange Commission;

6.3.2. Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

6.3.3. Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnerships or associations; and

6.3.4. Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee.

6.4. Agrarian Cases

Adm. Order No. 80A-90, amending Adm. Order No. 80, dated July 18, 1989, designated certain branches of the Regional Trial Courts as Special Agrarian Courts which have original and exclusive jurisdiction over the following cases:

6.4.1. Petitions for the determination of just compensation to landowners; and

6.4.2. Criminal offenses under Rep. Act No. 6657.

6.5. Dangerous Drugs Cases

Under A.M. No. 00-8-01-SC, certain branches of the Regional Trial Courts were designated as Special Courts to hear and decide all criminal cases in their respective jurisdictions involving violations of the Dangerous Drugs Act of 1972 (Rep. Act No. 6425), as amended, regardless of the quantity of drugs involved.

C. QUALIFICATIONS OF OFFICERS

1. QUALIFICATION STANDARDS:

1.1. Clerk of Court VII (Office of the Clerk of Court [OCC] in a Multiple Sala Court)

Education - Bachelor of Laws

Experience - Three (3) years of relevant experience

Training - Ten (10) hours of relevant training

Eligibility - Rep. Act No. 1080 (Bar)

1.2. Clerk of Court VI (Office of the Clerk of Court [OCC] in a Multiple Sala Court and Single Sala Court)

Education - Bachelor of Laws

Experience - Two (2) years of relevant experience

Training - Eight (8) hours of relevant training

Eligibility - Rep. Act No. 1080 (Bar)

1.3. Clerk of Court V (Assistant Clerk of Court - Office of the Clerk of Court [OCC] and Branch Clerk of Court)

Education - Bachelor of Laws

Experience - One (1) year of relevant experience

Training - Four (4) hours of relevant training

Eligibility - Rep. Act No. 1080 (Bar)

2. STATIONS

Unless otherwise provided by law, or ordered by the Supreme Court, the official stations of Clerks of Court and Assistant Clerks of Court shall be the places indicated in their respective appointments, while the stations of Branch Clerks of Court shall be the same as those of their respective branches.

3. SUPERVISION OVER CLERKS OF COURT

Clerks of Court, Assistant Clerks of Court, Branch Clerks of Court and other subordinate employees of Regional Trial Courts shall, for administrative purposes, be under the supervision of the Supreme Court, but in the performance of their duties, shall be subject to direct supervision of the Executive Judges or the Presiding Judges concerned.

The work and activities of the Clerk of Court of multiple sala courts are under the direct supervision of the Executive Judge, insofar as applicable, who shall, through the Clerk of Court, direct staff support activities to improve judiciary services.[18]

D. GENERAL FUNCTIONS AND DUTIES OF CLERKS OF COURT AND OTHER COURT PERSONNEL

1. CLERKS OF COURT

1.1. Office of the Clerk of Court of a Multiple Sala Court

1.1.1. Clerk of Court

- 1.1.1.1. is the administrative officer of the Court under the supervision of the Executive Judge;
- 1.1.1.2. has control and supervision over his personnel, all properties and supplies in his office;
- 1.1.1.3. acts on applications for leave of absence and signs daily time records of his staff, as well as the security and janitorial service personnel;
- 1.1.1.4. determines docket fees;
- 1.1.1.5. assists in the raffle of cases to the branches and judicial notices/summons to accredited publishers;
- 1.1.1.6. issues clearances in appropriate cases;
- 1.1.1.7. acts as ex-officio notary public;
- 1.1.1.8. acts as ex-officio sheriff;
- 1.1.1.9. represents the Court in administrative dealings with the local government units and other agencies; and
- 1.1.1.10. performs and discharges such duties as may be assigned by the Executive Judge.
- 1.1.2. Assistant Clerk of Court
 - 1.1.2.1. assists the Clerk of Court in the performance of the latter's duties and responsibilities;
 - 1.1.2.2. acts as Clerk of Court in the absence of the incumbent;
 - 1.1.2.3. performs and discharges such duties as may be assigned by the Executive Judge.
- 1.2. Branch Clerk of Court
 - 1.2.1. is the extension of the Clerk of Court for administrative purposes and performs some of the functions and duties of the Clerk of Court but only within the branch, subject to the supervision and control of the Presiding Judge;
 - 1.2.2. is the custodian of the Court's properties and premises;
 - 1.2.3. attends hearing, takes charge of the administrative aspects of its business, and chronicles its directions;
 - 1.2.4. keeps the following books:
 - 1.2.4.1. General Docket

Each page shall be numbered and prepared for receiving all the entries in a single case and shall enter therein all cases, numbered consecutively in the order in which they were received and, under the heading of each case and a complete title thereof, the date of each paper filed or issued, of each order or judgment entered, and of every step taken in the case, so that by reference to a single page the history of the case may be seen.[19]
 - 1.2.4.2. Judgment Book

It contains a copy of each judgment rendered by the Court in the order of its date.[20]
 - 1.2.4.3. Book of Entries of Judgments

It contains at length in chronological order entries of all final judgments or orders of the Court.[21]
 - 1.2.4.4. Execution Book

It contains records in chronological order of each execution, and the officer's return thereon, by virtue of which real property has been sold.[22]

The general docket, judgment book, entries book and execution book shall be indexed in alphabetical order in the names of the parties, and each of them. If the Court so directs, the Clerk of Court shall keep two (2) or more of either or all of the books and dockets above mentioned, separating civil from criminal cases, or actions from special proceedings, or otherwise keeping cases separated by classes as the Court shall deem best.[23]

1.2.5. keeps a daily record of the Court's activities in a book known as the Court Journal, wherein daily entries shall be made of:

1.2.5.1. Time of opening, recess and closing of the Court

1.2.5.2. Cases tried or heard and status of each

1.2.5.3. Decisions or orders released

1.2.5.4. Cases Filed

1.2.5.5. Subpoenas, notices or warrants issued

1.2.5.6. Returns received

1.2.5.7. Other matter as may be specified by the Supreme Court.

The entries for each day shall be certified by the Clerk of Court or Branch Clerk of Court, as the case may be, and the Court Journal shall be open to public inspection.[24]

1.2.6. receives and keeps the necessary papers of a case in their corresponding files;

1.2.7. supervises the withdrawal of all records of cases to be heard and the preparation of the notices of hearing, calendar reports, minutes, monthly reports of cases, inventory of cases, index of exhibits and paging of records;

1.2.8. sees to it that all returns of notices are attached to the corresponding records and that all the pieces of documentary evidence properly marked during the hearing are collected in the exhibit folder;

1.2.9. signs summonses, subpoenas and notices; remittances of prisoners, certified true copies of decisions and orders, letters of administration and guardianship, transmittals of appealed cases, indorsements and communications, and monthly reports of cases;

1.2.10. signs releases of prisoners, writs and other processes upon order of the Court;

1.2.11. keeps tab of the attendance and whereabouts of personnel during office hours;

1.2.12. receives evidence, when so commissioned, such as in petitions for appointment of administrators and/ or executors, receivers, guardians, accounting reports and similar incidents, without collecting fees;

1.2.13. represents the Presiding Judge, when designated by the latter, in ocular inspection and acts as hearing officer in the taking of depositions; and

1.2.14. performs such other functions as may be delegated by the Clerk of Court and/or assigned by the Presiding Judge.

1.3. Clerk of Court of a Single Sala Court

1.3.1. performs the functions of a Clerk of Court in a multiple sala court and the functions of a Branch Clerk of Court.

2 OTHER COURT PERSONNEL

2.1. Office of the Clerk of Court of a Multiple Sala Court

2.1.1. Administrative Officer IV / Administrative Officer V

2.1.1.1. assists the Clerk of Court in supervising, directing and controlling the activities of the Administrative Division;

2.1.1.2. assists the Clerk of Court in his administrative functions pertaining to records, supplies and equipment, personnel, notaries public, and general services;

2.1.1.3. initials requisitions for supplies and materials, applications for leave and other employees' benefits for the signature of the Clerk of Court;

2.1.1.4. implements administrative policies and procedures as directed by the Clerk of Court; and

2.1.1.5. does related work.

2.1.2. Administrative Officer II/Administrative Officer III

2.1.2.1. assists the Administrative Officer IV (or III, as the case may be) in his administrative functions pertaining to his assigned section with regard to records, supplies, equipment, personnel, notaries public and general services, and does related work;

2.1.2.2. performs functions in 2.1.1.3 and 2.1.1.4.

2.1.3. Administrative Officer I

2.1.3.1. assists the Administrative Officer II in the supervision of the operations and activities of the Unit or Section;

2.1.3.2. studies and makes suggestions to improve work methods and procedures for a more effective operation of the Unit or Section;

2.1.3.3. takes actions on delegated routine matters;

2.1.3.4. makes periodic reports of activities and accomplishment of the Unit; and

2.1.3.5. does related work.

2.1.4. Records Officer II/Records Officer III/Records Officer IV/Records Officer V

2.1.4.1. directs and supervises the activities of all sections under the division, including the personnel thereof engaged in record management activities;

2.1.4.2. is responsible for the custody and safekeeping of records, papers and documents;

2.1.4.3. authenticates copies of records and causes their repair and rebinding;

2.1.4.4. recommends changes and modifications to improve the recording system;

2.1.4.5. maintains an effective filing and storage system for easy access;

2.1.4.6. prepares answers to correspondence and communications relative to the records kept by the Section;

2.1.4.7. checks all records, papers and documents to determine sufficiency and compliance with rules;

2.1.4.8. keeps track of all incoming and outgoing records and their whereabouts;

2.1.4.9. oversees periodic sanification of records and their environs; and

2.1.4.10. performs other duties that may be assigned to him.

2.1.5. Deputy Sheriff IV/Deputy Sheriff V /Deputy Sheriff VI

2.1.5.1. serves and/or executes all writs and processes of the Courts and other agencies, both local and foreign;

2.1.5.2. keeps custody of attached properties or goods;

2.1.5.3. maintains his own record books on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes executed by him;

2.1.5.4. submits periodic reports to the Clerk of Court;

2.1.5.5. does related tasks and performs other duties that may be assigned by the Executive Judge and/or Clerk of Court.

2.1.6. Librarian I (for 4 - 6 branches) Librarian II (for 7 - 55 branches)

Librarian III (for 56 - 95 branches)

2.1.6.1. directs the operations and activities of the Library Unit/Section and supervises the personnel thereof;

2.1.6.2. implements policies, directives, rules and regulations relating to library administration;

2.1.6.3. plans and makes work assignment and schedule;

2.1.6.4. answers questions involving research and reference materials, and the use of indexes and bibliographies;

2.1.6.5. advises library personnel in the proper maintenance of library records;

2.1.6.6. renders assistance to researchers in the use of the library and its resources;

2.1.6.7. selects and recommends reference materials for acquisition; and

2.1.6.8. does related work.

2.1.7. Human Resource Management II

Human Resource Management Officer III

2.1.7.1. has direct supervision and control over the human resource management operations and activities of the personnel section;

2.1.7.2. gives instructions and guidance on work methods and procedures

2.1.7.3. plans distribution of work among subordinates;

2.1.7.4. maintains data concerning the activities of the unit for the adequate review of higher officials;

2.1.7.5. analyzes, verifies and consolidates data required by the higher officials;

2.1.7.6. studies and prepares report. and recommendations on matters referred to him by his superior;

2.1.7.7. maintains office discipline and recommends required administrative action to superior

2.1.7.8. settles technical and procedural problems;

2.1.7.9. prepares reports, communications and memoranda as required;

2.1.7.10. authenticates copies of documents;

2.1.7.11. assists the Clerk of Court in the procurement of the office supplies and equipment;

2.1.7.12. recommends to the Clerk of Court in the efficiency/performance rating of subordinate personnel; and

2.1.7.13. does related work.

2.1.8. Human Resource Management Officer I

2.1.8.1. attends to a variety of specialized personnel work following closely applicable laws, rules and regulations that require no legal interpretation or decision;

2.1.8.2. maintains an up-to-date plantilla of personnel;

2.1.8.3. prepares reports concerning personnel statistics, movements and activities; and

2.1.8.4. does related work.

2.1.9 Human Resource Management Assistant

2.1.9.1. performs highly skilled clerical tasks;

2.1.9.2. helps and participates in the preparation of actions on requests for verification of status of cases;

2.1.9.3. assists in the preparation of necessary reports;

2.1.9.4. maintains an updated compilation of circulars, memoranda, orders, rules and regulations, and other papers and/or documents; and

2.1.9.5. does related work.

2.1.10. Cashier III

2.1.10.1. makes physical deposits and withdrawals of cash as may be authorized by the Clerk of Court;

2.1.10.2. receives collection of cash clerks and consolidates daily collection reports;

2.1.10.3. prepares statements of cash accountability;

2.1.10.4. verifies cash balance of lower-grade receiving cashiers by comparing cash on hand with book balances;

2.1.10.5. verifies the posting of cash advances, disbursements, collections and deposits;

2.1.10.6. prepares daily cash position reports and other monthly reports of collections and disbursements; and

2.1.10.7. does related work.

2.1.11. Cashier II

2.1.11.1. assists Cashier III in the performance of his functions; and

2.1.11.2. performs functions of Cashier III in the absence of plantilla position for Cashier III.

2.1.12. Cashier I

2.1.12.1. assists Cashier II in the performance of his functions; and

2.1.12.2. performs functions of Cashier III in the absence of plantilla positions for Cashier II and Cashier III.

2.1.13. Cash Clerk II (for 2 – 3 branches)

Cash Clerk III (for 4 – 55 branches)

2.1.13.1. receives money and/or accepts valid payments in cash, checks, warrants or money orders, and issues receipts for all kinds of payment made;

2.1.13.2. remits all collections for the day to the Cashier, together with the corresponding official receipts;

2.1.13.3. makes daily and periodic reports of the different collections regarding general fund, fiduciary fund and legal research fund;

2.1.13.4. makes visual check to determine genuineness of currency rates;

2.1.13.5. performs the duties of a Cashier in the absence of plantilla position for Cashier; and

2.1.13.6. performs other duties that may be assigned.

2.1.14. Statistician III

2.1.14.1. directs and supervises the work and activities of the Statistics Section;

2.1.14.2. prepares and recommends plans, schedules and statistical methods, techniques and procedures to be followed and observed in the collection, processing and analysis of lower court statistics, particularly cases filed, disposed of and pending in the lower courts as well as accomplishments of judges;

2.1.14.3. supervises and reviews the work of subordinate statisticians and statistical clerks for accuracy, consistency and compliance with instructions;

2.1.14.4. coordinates the work of subordinate statisticians in the collection, compilation, verification, computation, analysis and presentation of various lower courts' statistics;

2.1.14.5. determines the validity, comparability and adequacy of data available to answer statistical needs;

2.1.14.6. recommends to the Clerk of Court in the efficiency/performance rating of subordinate personnel; and

2.1.14.7. does related work.

2.1.15. Statistician II

2.1.15.1. directs and supervises the activities in the Statistics Section;

2.1.15.2. studies and devises methods and techniques to obtain statistical data or to reduce them into appropriate form;

2.1.15.3. analyzes available statistical materials relative to their coverage, methods employed and limitation;

2.1.15.4. evaluates results of statistical surveys and similar inquiries for accuracy, consistency and conformity to standards;

2.1.15.5. gathers, compiles, transforms, computes and summarizes statistical data on cases filed, disposed of and pending in the lower courts;

2.1.15.6. assists in the preparation of statistical tables, charts and graphs of the volume of cases filed, disposed of and pending in the courts as well as the rates of performance of the judges;

2.1.15.7. designs forms for statistical use;

2.1.15.8. devises and adopts techniques, methods and procedures for effective statistical work;

2.1.15.9. reviews work of statistical clerks and aides; and

2.1.15.10. does related work.

2.1.16. Statistician I

2.1.16.1. selects, compiles, transforms, computes and summarizes statistical data on performance of judges, cases filed, disposed of and pending in the courts, status of employment, number of personnel, inventories, as well as other relevant statistics;

2.1.16.2. prepares forms for statistical worksheets and tables according to instructions;

2.1.16.3. computes simple statistical measures of central tendencies and variability as well as non-parametric statistics;

2.1.16.4. utilizes simpler statistical formula;

2.1.16.5. assists in the preparation of questionnaires and tabular presentation of statistics; and

2.1.16.6. conducts field canvass, whenever necessary, to obtain specified statistical information.

2.1.17. Assistant Statistician

2.1.17.1. assists the Statistician II and Statistician I in performing functions mentioned in 2.1.15 and 2.1.16.

2.1.18. Social Welfare Officer II /Social Welfare Officer III

2.1.18.1. conducts interviews and home visits to parties or wards;

2.1.18.2. contacts all possible informants regarding accused minors;

2.1.18.3. prepares case study reports based on interviews and home visits;

2.1.18.4. provides individual and group counseling service and other necessary social services and assistance;

2.1.18.5. refers, by direction of the Court, parties or individuals to appropriate agencies for rehabilitation;

2.1.18.6. appears in Court as witness to supplement his written case study reports submitted to the trial judge; and

2.1.18.7. does related work.

2.1.19. Supply Officer II/Supply Officer III

2.1.19.1. directs the work of a lower staff engaged in various supply activities such as the inspection, delivery, storekeeping and requisitioning of office supplies and equipment for the Office of the Clerk of Court as well as the branches;

2.1.19.2. directs the procurement of office supplies and equipment;

2.1.19.3. makes recommendations in determining the use of office supplies and equipment; and

2.1.19.4. studies stocks supply and movements;

2.1.19.5. does related work.

2.1.20. Court Stenographer III

2.1.20.1. takes stenographic notes on all matters that transpire during court hearings or preliminary investigations and transcribes them;

2.1.20.2. takes down and transcribes, in final form, dictations of the Judge/Clerk of Court; and

2.1.20.3. does related work.

2.1.21. Court Interpreter III

2.1.21.1. acts as translator of the Court;

2.1.21.2. attends court hearings;

2.1.21.3. administers oath to witnesses;

2.1.21.4. marks and keeps, under the direction of the Clerk of Court/Branch Clerk of Court, all exhibits submitted in evidence;

2.1.21.5. prepares minutes of the court sessions;

2.1.21.6. maintains and keeps in custody a record book of cases calendared for hearing; and

2.1.21.7. performs such other duties as may be assigned by the Judge and/or Clerk of Court.

2.1.22. Clerk IV

2.1.22.1. assists in the supervision of the Administrative Section;

2.1.22.2. prepares requisitions of supplies and materials for all branches and the Office of the Clerk of Court;

2.1.22.3. attends to the general services requirements of all the branches and of the Office of the Clerk of Court; and

2.1.22.4. performs other duties that may be assigned.

2.1.23. Clerk III

2.1.23.1. receives and docket cases filed with the Office of the Clerk of Court;

2.1.23.2. maintains and keeps custody of docket books for criminal, civil, special civil actions, land registration, special proceedings, administrative cases and reconstituted cases;

2.1.23.3. indexes cases filed with the Office of the Clerk of Court;

2.1.23.4. prepares and initials clearances; and

2.1.23.5. performs other duties that may be assigned to him.

2.1.24. Process Server

2.1.24.1. serves court processes such as subpoena, summons, court order and notice;

2.1.24.2. prepares and submits returns of court processes;

2.1.24.3. monitors messages and/or delivers court mails;

2.1.24.4. maintains and keeps custody of record book of court mail matters received and dispatched by him; and

2.1.24.5. performs such other duties as may be assigned to him.

2.1.25. Utility Worker

2.1.25.1. performs a variety of low level functions, such as janitorial work, stitching of case records, messengerial work; and

2.1.25.2. does related work as directed.

2.2. Single Sala or Branch of a Multiple Sala Court

2.2.1. Legal Researcher

2.2.1.1. verifies authorities on questions of law raised by parties-litigants in cases brought before the Court as may be assigned by the Presiding Judge;

2.2.1.2. prepares memoranda on evidence adduced by the parties after the hearing;

2.2.1.3. prepares outlines of the facts and issues involved in cases set for pre-trial for the guidance of the Presiding Judge;

2.2.1.4. prepares indexes to be attached to the records showing the important pleadings filed, the pages where they may be found, and in general, the status of the case;

2.2.1.5. prepares and submits to the Branch Clerk of Court a monthly list of cases or motions submitted for decision or resolution, indicating therein the deadlines for acting on the same; and

2.2.1.6. performs such other duties as may be assigned by the Presiding Judge or the Branch Clerk of Court.

2.2.2. Court Stenographer

2.2.2.1. takes stenographic notes on all matters that transpire during court hearings or preliminary investigations and transcribes them;

2.2.2.2. takes down and transcribes, in final form, dictations of the Presiding Judge and/or Branch Clerk of Court; and

2.2.2.3. performs such other duties as may be assigned by the Presiding Judge and/or Branch Clerk of Court.

2.2.3. Court Interpreter

2.2.3.1. acts as translator of the Court;

2.2.3.2. attends court hearings;

2.2.3.3. administers oath to witnesses;

2.2.3.4. marks exhibits introduced in evidence and prepares the corresponding list of exhibits;

2.2.3.5. prepares and signs minutes of the court session;

2.2.3.6. maintains and keeps custody of record book of cases calendared for hearing;

2.2.3.7. prepares court calendars and the records of cases set for hearing; and

2.2.3.8. performs such other functions as may, from time to time, be assigned by the Presiding Judge and/or Branch Clerk of Court.

2.2.4. Sheriff IV

2.2.4.1. serves and/or executes writs and processes addressed and/or assigned to him by the Court and prepares and submits returns of his proceedings;

2.2.4.2. keeps custody of attached properties or goods;

2.2.4.3. maintains his own record books on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes executed by him; and

2.2.4.4. performs such other duties as may be assigned by the Executive Judge, Presiding Judge and/ or Branch Clerk of Court.

2.2.5. Clerk III

2.2.5.1. does general clerical functions and other related tasks;

2.2.5.2. assists the Clerk of Court in maintaining the integrity of the docket books of the Court;

2.2.5.3. receives and enters in the docket books all cases filed, including all subsequent pleadings, documents, and other pertinent communications;

2.2.5.4. maintains and updates docket books on pending cases, books on terminated cases, books on appealed cases, books on warrants of arrest issued, books on accused persons who are at-large, and books on judgments against bail bonds;

2.2.5.5. maintains a systematic filing of criminal cases, civil cases, special civil actions, land registration cases and administrative cases;

2.2.5.6. prepares subpoenas, court notices, processes, and communications for the signature of the Presiding Judge and/or Branch Clerk of Court;

2.2.5.7. assists in the release of decisions, orders, processes, subpoenas and notices as directed by the Presiding Judge and/or Branch Clerk of Court;

2.2.5.8. checks and reviews exhibits and other documents in appealed cases;

2.2.5.9. prepares weekly/monthly/quarterly/annual reports to the Court on the status of individual cases;

2.2.5.10. makes available all court records for inspection by the public unless the Court forbids its publicity; and

2.2.5.11. performs such other duties as may be assigned by the Presiding Judge and/or Branch Clerk of Court.

2.2.6. Process Server

2.2.6.1. performs the same functions of a process server in the Office of the Clerk of Court of a multiple sala court.

2.2.7. Utility Worker

2.2.7.1. acts as courier of the Court;

2.2.7.2. maintains and keeps custody of a record book on matters dispatched by him;

2.2.7.3. monitors messages received and/or delivers mail matters to court employees;

2.2.7.4. sews originals of records, pleadings/documents as directed by the Branch Clerk of Court, docket clerk and clerk-in-charge in the strict order of dates in which received and in the correct expediente, seeing to it that they are sewn straight, and that no letterings or parts thereof are stitched;

2.2.7.5. maintains cleanliness in and around the court premises; and

2.2.7.6. performs such other functions as may be assigned by the Presiding Judge and/or Branch Clerk of Court.

3. GENERAL FUNCTIONS OF THE OFFICE OF THE CLERK OF COURT IN A MULTIPLE SALA COURT

3.1. Office of the Clerk of Court Proper

3.1.1. Adjudicative Support Division

3.1.1.1. Criminal Cases Section

3.1.1.2. Civil Cases Section

3.1.1.3. Special Proceedings Section

3.1.1.4. Land Registration Cases Section

3.1.1.5. Appealed Cases Section

3.1.1.6. Family Court Cases Section

These sections maintain dockets; receive cases for docketing, indexing, raffling and distribution to branches; attend and cater to verification of cases filed and raffled; issue clearances to individuals or corporations; and issue notices of raffle, as well as summonses when required or requested.

3.1.2. Administrative Division

3.1.2.1 Collecting Section

- assesses filing fees and allocates the fees to different accounts;
- receives payments for filing fees, judicial deposits and other fees such as clearance, notarial and extra-judicial commissions;
- deposits collections to, and withdraws funds from, banks; and
- prepares reports of collections, deposits and withdrawals.

3.1.2.2. Notarial Section

- prepares notarial commissioning and oath of office and submits them to the Executive Judge for approval after verification as to authenticity and correctness of the documents presented;
- issues authenticated and certified copies of documents filed by commissioned notaries public;
- receives all notarial reports for filing, sorting and safekeeping; and
- maintains efficient archives of these notarial reports for preservation and to facilitate retrieval.

3.1.2.3. Records and Archives Section

- receives records of terminated cases for filing; and
- maintains efficient archives of these records for protection and to facilitate retrieval.

3.1.2.4. Personnel Section

- maintains personnel files;
- prepares certifications and clearances for personnel; and
- distributes salary checks and other benefits.

3.1.2.5. Property and Supplies Section

- maintains accurate inventory of property and supplies; and
- requisitions, receives, records and distributes property/supplies to personnel.

3.1.2.6. Statistics Section

- gathers, maintains and prepares statistical data on cases filed and raffled; and
- designs and submits statistical reports, including inventory of cases.

3.1.2.7. Library Section

- requisitions books and other printed matters from the Supreme Court and receives donated books; and
- maintains and keeps books and printed matters for research and reference purposes.

3.1.3. The Pool Section

This is composed of Stenographers, Interpreters and Sheriffs, who may be assigned to the different branches of the Court, whenever requested, to fill in vacancies arising from leave of absence, retirement, resignation or transfer, and of Social Workers who are assigned to Family Courts.

3.2. Clerk of Court as Ex-Officio Sheriff

3.2.1. Serves summonses and notices of raffle in initiatory pleadings with application for temporary restraining order and preliminary injunction;[25]

3.2.2. Serves processes and implements writs coming from:

3.2.2.1. the branches of the Court in the absence of the branch sheriff;

3.2.2.2. the other courts of the country, including the Court of Appeals and the first level courts; and

3.2.2.3. the offices and quasi-judicial agencies of the Government.

3.2.3. Serves summonses and processes coming from foreign countries.

E. SPECIFIC FUNCTIONS AND DUTIES

1. ADJUDICATIVE SUPPORT FUNCTIONS

1.1. Office of the Clerk of Court and Single Sala Court

1.1.1. Filing with the Court

1.1.1.1. Manner of filing – The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the Clerk of Court or by sending them by registered mail.[26]

- Personal – The Clerk of Court shall endorse on the pleading the date and hour of filing.[27]

The complaint is deemed filed when the date and hour of filing are written or stamped by the clerk on the complaint. The Clerk of Court is directed not to docket the complaint unless the correct docket fees are first paid. In case of indigent litigant, the case should not be docketed unless the order of the Judge allowing him to litigate as such has been issued.[28]

- Registered mail – The date of mailing of motions, pleadings or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt shall be considered as the date of their filing, payment or deposit in court. The envelope shall be attached to the record.[29]

If the docket fees are not enclosed with the registry-mailed complaint, or if the amount of the fees sent is short of that required by law, the Clerk of Court shall not docket the complaint and shall immediately inform the plaintiff thereof and apprise the Court accordingly.

1.1.1.2. Payment of Docket and other Legal Fees – Upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed therefor shall be paid in full. [30]

- Guidelines - No case should be assigned a number until the filing fee is paid and in case of indigent party, until the motion to litigate as indigent party is approved by the Court/Executive Judge.

- Exemptions from payment of court fees –

b.1. Indigent litigants – Indigent litigants (a) whose gross income and that of their immediate family do not exceed four thousand (P4,000.00) pesos a month if residing in Metro Manila, and three thousand (P3,000.000) pesos a month if residing outside Metro Manila, and (b) who do not own real property with an assessed value of more than fifty thousand (P50,000.00) pesos, shall be exempt from the payment of legal fees.

The legal fees shall be a lien on any judgment rendered in the case favorably to the indigent litigant, unless the Court otherwise provides.

To be entitled to the exemption provided in Rule 141, the litigant shall execute an affidavit that he and his immediate family do not earn a gross income above mentioned, nor do they own any real property with the assessed value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the litigant's affidavit.

Any falsity in the affidavit of a litigant or disinterested person shall be a cause to strike out the pleading of that party, without prejudice to whatever criminal liability may have been incurred.[31]

b.2. Government exempt - The Republic of the Philippines, its agencies and instrumentalities, are exempt from

paying the legal fees provided in Rule 141. Local governments and government-owned or controlled corporations with or without charters are not exempt from paying such fees.[32]

However, all court actions, criminal or civil, instituted at the instance of the provincial, city or municipal treasurer or assessor under Sec. 280 of the Local Government Code of 1991 shall be exempt from the payment of court and sheriff's fees.

b.3. Tenant-farmer, agricultural lessee or tiller, settler or amortizing owner-cultivator[33]

1.1.2. Receiving and Docketing

1.1.2.1. Receiving

- In single sala, initiatory and subsequent pleadings shall be filed with the Clerk of Court.
- In multiple sala, initiatory pleadings shall be filed with the Office of the Clerk of Court and subsequent pleadings shall be filed directly with the branch to which the case is assigned.

1.1.2.2. Docketing

- In a single sala court, the clerk shall keep a General Docket, each page of which shall be numbered and prepared for receiving all the entries in a single case and shall enter therein all cases, numbered consecutively in the order in which they were received, and under the heading of each case and a complete title thereto, the date of each paper filed or issued, of each order or judgment entered, and of every step taken in the case, so that, by reference to a single page, the history of the case may be seen.[34]
- The date and time of filing must be indicated on the cover as well as on the first page of the pleading together with its assigned docket number.
- The docket number must follow a sequential order corresponding to the date and time of filing of the case which shall be reflected in the Docket Record, in which the docket number, caption, date and time of filing of the case, and the number and date of the official receipts for the legal fees paid shall be entered.[35]
- The clerk in charge in the Office of the Clerk of Court shall indicate on the appropriate page of the docket the branch to which the case is raffled and the date of raffling, as well as the dispositive portion of the judgment or final order.

1.1.3. Assignment of Cases/Raffling of Cases

The assignment of cases to the different branches of a Court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present.[36]The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all branches in the particular station or grouping shall be included in the raffle. Cases in excess of the number sufficient for equal distribution shall be included in the next scheduled raffle, subject to the exceptions in urgent incidental or interlocutory matters.[37]

1.1.3.1. Notice of raffle

- Notice of the day and hour of the raffle shall be posted prominently at the main entrance of the session hall of the Executive Judge and at the bulletin board of the Office of the Clerk of Court. Other notices to the parties may be sent as the interest of justice may require on request of any party and with the prior approval of the Executive Judge. There shall be no special raffle of any case except on meritorious application in writing by any party to the

case and with the approval of the Executive Judge.[38]

- If the regular raffle of cases is scheduled at 2:00 o'clock in the afternoon of the raffle day, the cut-off period for the inclusion of cases in the list shall be 12:00 o'clock noon to allow sufficient time for the preparation of a complete raffle list for posting and distribution of copies to all judges before the raffle. In this connection, each judge in the station must have a copy of the list at least thirty (30) minutes before the scheduled raffle.[39]

- The list of cases to be raffled must be arranged according to the sequence of their docket numbers. There should be a list for criminal cases and another for civil cases.[40]

- The list of criminal cases should first enumerate those exclusively cognizable by special criminal courts and/or courts designated to hear family and youth cases.[41]

1.1.3.2. Regular raffle

- A Raffle Committee shall be composed of the Executive Judge, Vice-Executive Judges and two (2) other judges assigned for the raffle in accordance with the pairing system who shall all be present during the scheduled raffle. The assignment of pairing judges shall be strictly by rotation.[42]

The Committee shall be assisted in the raffle by the Clerk of Court/Assistant Clerk of Court and two (2) stenographers.[43]

- In stations where there are only two (2) salas, the judges of both and either the Clerk of Court or the Branch Clerk of Court should be present. In the absence of the Executive Judge, the Judge at the station who is the most senior in point of appointment to the Judiciary shall personally conduct the raffle.[44]

- The raffle must be conducted at the lawyer's table in open court. Under no circumstance may any raffle be made in chambers.[45]

- The raffle must be conducted in such manner that all branches of the Court in that station or grouping, including vacant salas, shall receive more or less the same number of civil, criminal and other kinds of cases.[46]

However, all vacant salas without judges on temporary assignment or detail therein, or the sala where the judge is on an extended leave of more than 30 days, shall be excluded from the raffle of criminal cases [involving detention prisoners]; provided that once the vacancies are filled or the absent judge has returned, the sala shall be assigned such number of cases as will equalize its caseload equitably with the rest of the other branches in the same station.[47]

- The members of the Raffle Committee, together with the pairing judges assigned for the raffle, shall each confirm in open court the branch to which a case is raffled before the next draw is made.[48]

- The stenographers shall record accurately the raffle proceedings stating therein, among others, the names of all those required to be present and the parties attending, if any.[49]

The stenographers shall transcribe, duly accomplish and sign the minutes of the raffle proceedings immediately, not later than twenty-four (24) hours thereafter.[50]

- Every Judge sitting in the Raffle Committee shall review the entries in the Minutes and countercheck them with his own entries in his list before signing on each and every page thereof. He shall not affix his signature thereon unless he has thoroughly verified the accuracy of the entries in the minutes.[51]

- Every Judge sitting in the Raffle Committee shall then affix his initials on the right hand corner of the cover page and the first page of the initial pleading, but only after a thorough verification of the accuracy of the

assignment of the cases to the branches drawn in the raffle. The Executive Judge shall be the last to affix his initials as herein required only after proper verification of the accuracy of the entries in the minutes.[52]

- The minutes shall be signed in turn by all members of the Raffle Committee, duly certified by the Executive Judge, and posted immediately at the bulletin boards of the Executive Judge and the Clerk of Court. Each branch shall be furnished a copy of the minutes of the raffle.[53]

1.1.3.3. Special raffle

- Whenever an incidental or interlocutory matter in a case is of such urgent nature that it may not wait for the regular raffle, the interested party may request the Executive Judge in writing for a special raffle. If the request is granted and the special raffle is conducted, the case shall immediately be referred to the branch to which it corresponds. The Executive Judge shall have no authority to act on any incidental or interlocutory matter in any case not yet assigned to any branch by raffle.[54]

- There shall be no special raffle except upon written application of a party and only upon highly justifiable reason/s to be determined by the Executive Judge and his Vice Executive Judges after due consultation with one another. A certification granting or denying the application and citing the reason/s therefor shall be issued accordingly. Such certification shall be attached to the expediente immediately after the initial pleading and shall form part of the record of the case.[55]

- If the application is granted, the special raffle shall be held in the session hall of the Executive Judge in the presence of the members of the Raffle Committee scheduled to sit in the next regular raffle. A certification to the effect that a special raffle was duly held and that the case was thereafter assigned to the branch drawn in the process shall be issued and signed by all the members of the Special Raffle Committee.[56]

- The date and time of the raffle shall be written on the front cover of the expediente and on the first page of the initial pleading and signed by all members of the Special Raffle Committee.[57]

- In the preparation of the list of cases to be included in the regular raffle, the Clerk of Court shall include the cases thus specially raffled prior to the scheduled regular raffle, indicating therein the branch to which these cases have been assigned.[58]

- If the application for special raffle is denied, the case shall be included in the list of cases for the next regular raffle.[59]

1.1.3.4. Caseload of the Executive Judge – The caseload of the Executive Judge shall be as follows:[60]

- In case of multiple branches (salas) of not more than two (2), the distribution of cases shall be in the proportion of three (3) cases for the Executive Judge and four (4) for the other judge.

- In case of multiple branches (salas) of not less than three (3) or more than five (5), the distribution of cases shall be in the proportion of two (2) cases for the Executive Judge and three (3) for each of the other judges.

- In case of multiple branches (salas) of more than five (5), the distribution of cases shall be in the proportion of one (1) case for the Executive Judge and two (2) for each of the other judges.

1.1.3.5. Re-assignment of cases of disqualified/inhibiting judges

Inhibitions and disqualifications are judicial actions which do not require prior administrative approval. Administrative intervention is necessary only when the inhibition is by a judge of a single sala, and the case has to be transferred to another judge of another station. Administrative intervention is also warranted in case of conflict of opinions among the judges as to the propriety of the inhibition.[61]

- With respect to single sala courts, only the order of inhibition shall be forwarded to the Supreme Court for appropriate action. The records of the case shall be kept in the docket of the Court concerned while awaiting the instruction and/or action of the Supreme Court thereon.[62]

- With respect to multiple sala courts, only the order of inhibition shall be forwarded to the Executive Judge for appropriate action. The records of the case shall be kept in the docket of the Court concerned while awaiting the instruction and/or action of the Executive Judge thereon.[63]

In any case where the Judge concerned is disqualified or voluntarily inhibits himself, the records shall be returned to the Executive Judge and the case shall be included in the regular raffle for re-assignment. Another case, similar in category to the one re-assigned, shall be assigned by raffle to the disqualified or inhibiting Judge to replace the case so removed from his Court.[64]

1.1.3.6. Re-distribution of pending cases in multiple sala stations

In multiple sala stations where former incumbents have either retired or were promoted, leaving undecided pending cases of such volume that the present incumbent finds extreme difficulty in attending thereto, the Executive Judge should promptly make a report and recommendation on the equitable redistribution of these cases to the other salas. As much as practicable, the incumbent judges should arrive at an agreement on the matter; otherwise, the matter should be brought to the attention of the Court Administrator for prompt action.[65]

1.1.3.7. Distribution of cases among re-assigned judges[66]

- In order to minimize if not avoid public criticism, every trial judge who has started hearing a case shall continue to hear and decide the case even if a new judge is appointed or designated to replace him. For this purpose, the re-assigned judge shall in the meantime be considered Assisting Judge of the branch to which he was formerly assigned. If the re-assigned judge is only transferred to another branch in the same seat, the case shall be transferred to the branch to which he is assigned. He shall endeavor to so adjust his calendar as to enable him to dispose of his cases efficiently in his original as well as in his present assignment.

- Cases submitted for decision at the time of the appointment of a new judge shall be decided by the judge to whom they were submitted for decision, including motions for reconsideration and motions for new trial thereafter filed. However, if a new trial is granted, the new judge shall preside over the new trial until terminated.

1.1.3.8. Unloading of cases and special rules in newly created branches [67]

- The Executive Judge shall determine the average caseload of each branch by dividing the total number of cases pending in the station by the number of branches thereat, including those newly created.

- Each of the original branches may unload its excess over the average number determined in the preceding paragraph, subject to the following restrictions:

b.1. The unloading of cases shall be limited to civil cases which have not gone beyond the pre-trial stage, and criminal cases where the trial proper has not yet commenced.

b.2. In the event of an imbalance in the caseloads because fewer cases are unloaded to new courts while existing courts retain higher caseloads, the caseloads shall be equalized by excluding from the raffle all or some of the existing courts with higher dockets. The existing courts will be included in the raffle only when the caseloads of the new courts have attained the average level in the subsequent raffle of additional cases.

- Thereafter, the raffle shall be effected after the Executive Judge shall have collated all the cases to be unloaded and all the parties have been duly notified. The unloading shall be done strictly by raffle unless otherwise

authorized by the Supreme Court.

- In the meantime that the personnel complements of the newly created courts are being organized, their presiding judges may be assigned to existing courts with which such newly created courts may be paired. For this purpose, the presiding judge of a newly created court as pair judge of an existing court in the same station may hear and resolve cases and incidents requiring speedy action, such as those involving detention prisoners, applications for search warrants, petitions for habeas corpus, and other cases requiring immediate attention.

1.1.3.9. Special rules in newly created seats/stations[68]

- In areas with newly created seats/stations originally belonging to the territorial area of another court (e.g., RTC, Makati, where new seats or stations have been established in Muntinlupa, Las Piñas and Parañaque), each branch of the court in the original station is directed to immediately make an inventory of the cases which may be properly allocated to the newly created courts.

- The following rules shall, likewise, be observed:

b.1. The cases to be unloaded to the courts in the new station shall not exceed 150 for each branch to give ample allowance for cases which may be filed directly with the new courts.

b.2. In the meantime that the clerks of court for these new seats/stations are not yet appointed, or that no bonded court employee is designated to receive docket and other legal fees, the payment of such docket and other fees shall be made with the Clerks of Court of the original stations.

Any other administrative problem that may arise in the newly created courts shall be brought to the attention of the Court Administrator before any action is taken thereon so that the latter may, if necessary, refer the matter to the Supreme Court for appropriate resolution.

1.1.3.10. Inherited cases[69]As regards inherited cases which are submitted for decision before trial judges who have been promoted or, for any reason, are no longer in the service, the following rules shall apply:

- Inherited cases shall be decided by judges of existing courts to whom they are assigned. In fact, they are directed to decide these cases with deliberate dispatch.

- The Supreme Court, on its own initiative or upon recommendation of the Executive Judge, may direct a judge of a newly created court to decide inherited cases.

- An inherited case is deemed submitted to a judge for decision after he has received the testimony of the last witness, and for this purpose, the submission of exhibits and the memoranda of the parties shall not be taken into account.

1.1.3.11. Dismissed cases when refiled

When a case is dismissed for any cause whatsoever and the same is refiled, it shall not be included in the raffle anymore but shall be assigned to the branch to which the original case pertained. If, by mistake or otherwise, such case is raffled and assigned to another branch, the latter must transfer the case to the branch to which it originally belonged, in which event another case shall be assigned by raffle as replacement.[70]

To give greater force and effect to this rule, all orders of dismissal must be served upon all parties impleaded in the case.

1.1.3.12. Change of venue

Requests for change of venue shall be forwarded to the Supreme Court for appropriate action without the record of the cases concerned which shall be kept in their respective courts to await the instruction and/or action of the Supreme Court thereon. The judge of the court from which the case is sought to be transferred shall attach his comment and/or recommendation on such request.

1.1.3.13. Consolidation

When actions involving a common question of law or fact are pending before the Court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.[71] By analogy, as is the practice in the Court of Appeals, whenever two (2) or more allied cases are assigned to different branches of the same Court, the consolidation shall be in the branch with the case bearing the lowest docket number, subject to replacement with a case or cases of the same kind and status.[72]

Notice of the consolidation and, replacement shall be given to the parties and their respective counsel.

1.1.3.14. Designated Special Courts

The Executive Judges of the Regional Trial Courts shall exclude designated Special Courts from the raffle of other cases, criminal and civil, whenever in their judgment the case load of these courts shall prevent them from conducting daily trial of the special cases.[73]

1.1.3.15. Family Courts[74]

- In case only one (1) branch of the Regional Trial Court has been designated to handle juvenile and domestic relations cases and cases involving juveniles in conflict with the law, the Executive Judge shall cause the transfer of the listed cases to the branch so designated immediately after receipt of the records.
- In case two (2) or more branches of the Regional Trial Court have been designated to handle the aforementioned cases, the Executive Judge shall, within ten (10) days from receipt of the records, conduct the raffle, with notice to the parties, and distribute the cases, together with the records, to the branches involved.
- In provinces or cities where no branch or branches of the Regional Trial Court have been designated to handle juvenile and domestic relations cases or cases involving juveniles in conflict with the law, the Executive Judge shall conduct the appropriate raffle and distribute the said cases, together with the records, to the branches of the Regional Trial Court within ten (10) days from receipt of such records.

1.1.3.16. Special Agrarian Courts [75]

- All cases falling under Secs. 56 and 57 of the Comprehensive Agrarian Reform Law of 1988 which were filed with the Regional Trial Courts before the designation of the Special Agrarian Courts shall be transferred to the said Special Agrarian Courts, whether trial thereon has already commenced or not.
- Where two (2) Special Agrarian Courts are designated for a single province, the cases cognizable by said Special Agrarian Courts under the CARL shall be raffled by the Executive Judge between the said two (2) Special Agrarian Courts.

1.1.4. Pairing System

1.1.4.1. Multiple Sala Courts

- A pairing system shall be established whereby every branch shall be considered as paired with another branch.[76]

- Whenever a vacancy occurs by reason of resignation, dismissal, suspension, retirement, death, or prolonged absence of the presiding judge, the judge of the paired court shall take cognizance of all cases thereat as acting judge therein until appointment and assumption to duty of the regular judge or the designation of an acting presiding judge or the return of the regular incumbent judge, or until further orders from the Court.[77]

- For the purpose of pairing system, Branch 1 shall be paired with Branch 2, Branch 3 with Branch 4, and so on; and any branch in a station left without a pair shall be paired with the branch presided by the Executive Judge in addition to the latter's regular pair. In case of vacancy in the two (2) branches paired, with each other, or prolonged absence of both Presiding Judges of the paired branches, the incidental or interlocutory matters pertaining to any or both branches shall be acted upon by the Executive Judge. "Prolonged absence" means absence of one month or more.[78]

1.1.4.2. Single Sala Courts [79]

- In the event of vacancy in a single sala station or of the absence or disability of the judge thereof and no acting judge has yet been designated, the Clerk of Court, upon request of any party, shall refer any urgent matter requiring immediate action to the nearest Presiding Judge of the appropriate Regional Trial Court or Municipal Trial Court with jurisdiction to act on the matter. Such Presiding Judge is authorized to hear and resolve any urgent matters, including applications for restraining orders, injunctions and other matters requiring immediate attention prior to the appointment of a new judge, the return of the regular judge or the assignment of an acting judge, without prejudice to any subsequent action that may be taken by the judge to whom the particular case is eventually assigned. If the nearest trial court is a multiple sala station, the matter shall be referred to the Executive Judge, or in his absence, the Presiding Judge authorized to act for the Executive Judge.

- The Clerk of Court, before making such referral to the nearest Presiding Judge of the same level, shall certify that the station is vacant, or that the Presiding Judge thereof is absent or disabled and that no acting judge has been designated. The RTC Executive Judge with jurisdiction over the MTC single sala station concerned or the Court Administrator in the case of an RTC single sala station, shall immediately be notified of said referral.

- The Pairing Judge shall act on all matters pertaining to the paired single sala station in the said station utilizing its personnel and facilities. His attendance therein shall be deemed to be on official business. However, if his travel to the paired single sala station would cause delay in the trial or disposition of cases in his own court, he may act on all matters pertaining to the other court in his own station.

- If there are two (2) or more single sala courts more or less equidistant from the court without a judge, referral shall be made to the Presiding Judge most senior in the station, or if the Judges are of equal seniority, then to the Presiding Judge with the least number of pending cases.

1.2. Single Sala and Branch of a Multiple Sala Court - in Civil Cases (Ordinary Civil Actions, Special Civil Actions and Special Proceedings)

1.2.1. Before Trial

1.2.1.1. Summons

- Clerk to issue summons

Upon the filing of the complaint and the payment of the requisite legal fees, the Clerk of Court shall forthwith issue the corresponding summons to the defendants.[80]

In multiple sala court, it is the Branch Clerk of Court who issues the summons.

- Contents

The summons shall be directed to the defendant, signed by the Clerk of Court under seal, and contain: (a) the name of the Court and the names of the parties to the action; (b) a direction that the defendant answer within the time fixed by the Rules of Court; (c) a notice that unless the defendant so answers, plaintiff will take judgment by default and may be granted the relief applied for.

A copy of the complaint and order, for appointment of guardian ad litem, if any, shall be attached to the original and each copy of the summons.[81]

- Issuance of alias summons

If a summons is returned without being served on any or all of the defendants, the server shall also serve a copy of the return on the plaintiff's counsel, stating the reasons for the failure of service, within five (5) days therefrom. In such a case, or if the summons has been lost, the Clerk, on demand of the plaintiff, may issue an alias summons.[82]

- By whom served

The summons may be served by the sheriff, his deputy, or other proper court officer, or for justifiable reasons by any suitable person authorized by the Court issuing the summons.[83]

Summons must be served within fifteen (15) days from receipt by the server. The officer serving the summons must make a return thereof, whether served or unserved.

- Return

When the service has been completed, the server shall, within five (5) days therefrom, serve a copy of the return, personally or by registered mail, to the plaintiff's counsel, and shall return the summons to the clerk who issued it, accompanied by proof of service.[84]

1.2.1.2. Order and/or Notice of Hearing in lieu of, or in addition to, summons

- In petition for relief

If the petition is sufficient in form and substance to justify relief, the Court in which it is filed, shall issue an order requiring the adverse parties to answer the same within fifteen (15) days from the receipt thereof. The order shall be served in such manner as the Court may direct, together with copies of the petition and the accompanying affidavits.[85]

- In certiorari, prohibition and mandamus

If the petition is sufficient in form and substance to justify such process, the Court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the Court may direct, together with a copy of the petition and any annexes thereto.[86]

- In escheat proceedings

If the petition is sufficient in form and substance, the Court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, which date shall be not more than six (6) months after the entry of the order, and shall direct that a copy of the order be published before the hearing at least once a week for six (6)

successive weeks in some newspaper of general circulation published in the province, as the Court shall deem best.[87]

- In cases of adoption

Upon receipt of a petition for adoption, sufficient in form and substance, the Court, by an order reciting the allegations in the petition, shall set the same for hearing on a date which shall not be more than six (6) months after the entry of the order.[88] The said order shall be published in a newspaper of general circulation once a week for three (3) consecutive weeks, the last publication of which shall be at least two (2) weeks before the date of hearing.

No petition for adoption shall be set for hearing unless a licensed social worker of the Department of Social Welfare and Development, the social service office of the local government unit, or any child-placing or child-caring agency has made a case study for the adoptee, his biological parent(s), as well as the adopter(s), and has submitted the report and recommendations on the matter to the Court hearing such petition.[89]

- In cases of custody of minors

Upon the filing of a petition for custody, the rules on issuance and service of summons shall be observed.

After the last pleading has been filed, the case is set for pre-trial and referred to the social services and counseling division of the Court for social case study.[90]

- In petition for involuntary commitment of a child[91]

If the Court is satisfied that the petition is sufficient in form and substance, it shall direct the Clerk of Court to immediately issue summons which shall be served together with a copy of the petition and a notice of hearing, upon the parents or guardian of the child and the office of the public prosecutor not less than five (5) days before the date of hearing. The office of the public prosecutor shall be directed to immediately transmit the summons to the prosecutor assigned to the Family Court concerned.

If it appears from the petition that both parents of the child are dead or that neither parent can be found in the province or city where the Court is located and the child has no guardian residing therein, summons may not be issued and the Court shall thereupon appoint a guardian ad litem pursuant to sub-section (f) of Sec. 4 of the Rule on Commitment of Children and proceed with the hearing of the case with due notice to the provincial or city prosecutor.

- In petition for removal of custody of a child voluntarily committed to an institution or individual

If the petition is sufficient in form and substance, the Court shall set the same for hearing with notice to the Department, the public prosecutor, the court-designated social worker, the agency or individual to whom the child has been committed and in appropriate cases, the parents of the child.[92]

- In petition for commitment of a disabled child [93]

If the petition filed is sufficient in form and substance, the Court, by an order reciting the purpose of the petition, shall fix the date of the hearing thereof, and a copy of such order shall be served on the child alleged to be mentally retarded, physically handicapped, emotionally disturbed, mentally ill, with cerebral palsy or with similar afflictions and on the person having charge of him or any of his relatives residing in the province or city as the Court may deem proper.

The order shall also direct the sheriff or any other officer of the court to produce, if necessary, the alleged disabled child on the date of hearing.

- In proceedings for hospitalization of Insane persons

If the petition filed is sufficient in form and substance, the Court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, and copy of such order shall be served on the person alleged to be insane, and to the one having charge of him, or on such of his relatives residing in the province or city as the judge may deem proper. The Court shall furthermore order the sheriff to produce the alleged insane person, if possible, on the date of the hearing.[94]

- In habeas corpus cases

A Court or Judge authorized to grant the writ must, when a petition therefor is presented and it appears that the writ ought to issue, grant the same forthwith, and immediately thereupon the Clerk of Court shall issue the writ under the seal of the Court; or in case of emergency, the Judge may issue the writ under his own hand, and may deputize any officer or person to serve it.[95]

- In change of name proceedings (for cases not covered by Rep. Act No. 9048)

If the petition filed is sufficient in form and substance, the Court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, and shall direct that a copy of the order be published before the hearing at least once a week for three (3) consecutive weeks in some newspaper of general circulation published in the province,[96] as the Court shall deem best. The date set for the hearing shall not be within thirty (30) days prior to an election nor within four (4) months after the last publication of the notice.[97]

- In absentee cases[98]

When a petition for the appointment of a representative, or for the declaration of absence and the appointment of a trustee or administrator is filed, the Court shall fix a date and place for the hearing thereof where all concerned may appear to contest the petition.

Copies of the notice of the time and place fixed for the hearing shall be served upon the known heirs, legatees, devisees, creditors and other interested persons, at least ten (10) days before the day of the hearing, and shall be published once a week for three (3) consecutive weeks prior to the time designated for the hearing, in a newspaper of general circulation in the province or city where the absentee resides, as the Court shall deem best.

- In cases of cancellation and correction of entries in the civil registry (for cases not covered by Rep. Act No. 9048)

Upon the filing of the petition, the Court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The Court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.[99]

- In cases of voluntary submission of drug dependent

When a sworn petition of a parent, guardian or relative within the fourth degree of consanguinity or affinity of the minor drug dependent, or of the Secretary of Health, or the Secretary of Social Welfare and Development, is filed, the Court shall set the petition for hearing and give the drug dependent an opportunity to be heard. If, in its opinion, after such hearing, the facts so warrant, the Court shall order the minor drug dependent to be examined by two (2) physicians accredited by the Dangerous Drugs Board and if both physicians conclude, after examination that the minor is not a drug dependent, the Court shall order his discharge. If either physician finds him to be a dependent, the Court shall conduct a hearing and if after considering all relevant evidence, the Court makes a finding of drug dependency, it shall issue an order for his commitment to a center designated by it for

treatment and rehabilitation under the supervision of the Board.[100]

- In cases of voluntary dissolution of conjugal partnership

Upon receipt of a verified petition jointly filed by the spouses for voluntary dissolution of the absolute community or the conjugal partnership of gains and for the separation of their common properties, wherein all creditors of the absolute community or of the conjugal partnership of gains, as well as the personal creditors of the spouses are listed and notified, the Court shall take measures to protect the creditors and other persons with pecuniary interests.[101]

1.2.1.3. Modes of filing and service of pleadings, motions, notices, orders and other papers

- Personal service

Service of the papers may be made by delivering personally a copy to the party or his counsel, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, or he has no office, then by leaving the copy, between the hours of eight (8:00) in the morning and six (6:00) in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion then residing therein.[102]

- Service by mail

b.1. Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail.[103]

b.2. On every envelope or package for mailing and on the face of the corresponding registry return card must be indicated the (1) number, (2) title of the case, and (3) description of the contents thereof such as decision/order/writ/notice of hearing, together with a "note request" stamped or typewritten to the postmaster concerned to indicate in the registry notice to be sent to the addressee the corresponding case number, title and description of the contents of the mail matter.[104]

b.3. Mail matters of the Courts (judicial proceedings) enjoy franking privilege.

- Substituted service

If service of pleadings, motions, notices, resolutions, orders and other papers cannot be made by personal service or service by mail, the office and place of residence of the party or his counsel being unknown, service may be made by delivering the copy to the Clerk of Court, with proof of failure of both personal service and service by mail. The service is complete at the time of such delivery.[105]

- Completeness of service

Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the Court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier.[106]

- Priorities in modes of service and filing

Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with

respect to papers emanating from the Court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this rule may be a cause to consider the paper not filed.[107]

- Filing and service defined[108]

Filing is the act of presenting the pleading or other paper to the Clerk of Court.

Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counselor or one of them, unless service upon the party himself is ordered by the Court. Where one counsel appears for several parties, he shall only be entitled to one copy of any papers served upon him by the opposite side.

- Proof of filing

The filing of a pleading or paper shall be proved by its existence in the record of the case. If it is not in the record, but is claimed to have been filed personally, the filing shall be proved by the written or stamped acknowledgment of its filing by the Clerk of Court on a copy of the same; if filed by registered mail, by the registry receipt and by the affidavit of the person who did the mailing, containing a full statement of the date and place of depositing the mail in the post office in a sealed envelope addressed to the Court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if not delivered.[109]

- Proof of service

Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving,' containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Sec. 7 of Rule 13. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.[110]

1.2.1.4. Calendar of cases

The Clerk of Court, under the direct supervision of the Judge, shall keep a calendar of cases for pre-trial and trial, as well as those whose trials were adjourned or postponed, and those with motions to set for hearing. Preference shall be given to habeas corpus cases, election cases, special civil actions, and those so required by law.

- Pre-trial calendar

This includes cases scheduled for pre-trial conference.

- Trial calendar

This includes cases that have passed the pre-trial stage and cases set for continuation of trial. In the preparation of the calendar, cases filed the earliest or otherwise pending the longest should be given preference over the more recent ones, except election cases, habeas corpus cases, criminal cases where the victim is a tourist which should be disposed of within twenty-four (24) hours from filing, criminal cases for violation of the Dangerous Drugs Law, criminal cases where the accused are under detention, criminal cases which have attracted wide attention from the public that immediate action appears to be demanded to maintain public confidence, and those arising from special civil actions.

Judges should take more active part in the preparation of the trial calendar. The Clerk of Court should be required

to comply with his duty to include a case in the trial calendar as soon as the pre-trial is over. Whenever possible, there should be definite and separate trial days for civil and criminal cases, and the Court shall consult opposing counsels in calendaring cases for trial.[111]

- Motion calendar

This includes motions which appear to have been prepared and filed in accordance with the requirements of the rules on motions particularly regarding the notice and proof of service.

c.1. Notice of hearing

The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.[112]

c.2. Proof of service

No written motion set for hearing shall be acted upon by the Court without proof of service thereof.[113]

c.3. Motion day

Except for motions requiring immediate action, all motions shall be scheduled for hearing on Friday afternoons, or if Friday is a non-working day, in the afternoon of the next working day.[114]

1.2.1.5. Pre-trial

- When conducted

Within five (5) days after the last pleading joining the issues has been filed and served, the plaintiff must move ex parte that the case be set for pre-trial conference.[115]

- Pre-trial brief

The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:[116]

b.1. A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;

b.2. A summary of admitted facts and proposed stipulation of facts;

b.3. The issues to be tried or resolved;

b.4. The number and names of the witnesses to be presented, an abstract of their testimonies, and the approximate number of hours that will be required by the parties for the presentation of their respective evidence;

b.5. Copies of all documents intended to be presented with a statement of the purposes of their offer;

b.6. A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners;

b.7. Applicable laws and jurisprudence; and

b.8. The available trial dates of counsel for complete presentation of evidence, which must be within a period of three (3) months from the first day of trial.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.[117]

- Notice of pre-trial

The notice of pre-trial shall be served on counsel, or on the party who has no counsel. The counsel served with such notice is charged with the duty of notifying the party represented by him.[118]

The Clerk of Court of a single sala or the Branch Clerk of Court shall require the Legal Researcher to prepare an outline of the facts and issues involved in cases set for pre-trial for the guidance of the Presiding Judge.[119]

- Appearance of parties

It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.[120]

- Effect of failure to appear

The failure of the plaintiff to appear when so required pursuant to Sec. 4 of Rule 18 shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the Court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex parte and the Court to render judgment on the basis thereof.[121]

- Record of pre-trial

The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the Court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice.[122]

- Guidelines and procedures[123]

g.1. Before the pre-trial conference, the Judge must study the pleadings of every case, and determine the issues thereof and the respective positions of the parties thereon to enable him to intelligently steer the parties toward a possible amicable settlement of the case or, at the very least, to help reduce and limit the issues. The Judge should avoid the undesirable practice of terminating the pre-trial as soon as the parties have indicated that they cannot settle the controversy. He must be mindful that there are other important aspects of the pre-trial that ought to be taken up to expedite the disposition of the case.

g.2. At the pre-trial- conference, the following shall be done:

- The Judge with all tact, patience and impartiality shall endeavor to persuade the parties to arrive at a settlement of the dispute; if no amicable settlement is reached, then he must effectively direct the parties toward the achievement of the other objectives or goals of pre-trial set forth in Sec. 2 of Rule 18, Rules of Civil Procedure (1997).

The Presiding Judge may refer the case to the Clerk of Court for a preliminary conference to assist the parties in reaching a settlement, to mark the documents or exhibits to be presented by the parties with the list and copies thereof to be attached to the records after comparison, and to consider such other matters as may aid in the prompt disposition of the action.

- If warranted by the disclosures at the pre-trial, the Judge may either forthwith dismiss the action, or determine

the propriety of rendering a judgment on the pleadings or a summary judgment.

- The Judge shall define the factual issues arising from the pleadings and endeavor to cull the material issues.
- If only legal issues are presented, the Judge shall require the parties to submit their respective memoranda and thereafter render judgment.
- If trial is necessary, the Judge shall fix the trial dates required to complete the presentation of evidence by both parties within ninety (90) days from the date of initial hearing.

g.3. After the pre-trial conference, the Judge should not fail to prepare and issue the requisite pre-trial order, which shall embody the matters mentioned in Sec. 7 of Rule 18.

g4. The Judge should encourage the effective use of pre-trial discovery procedures.

1.2.1.6. Subpoena and other court processes

- Form and contents

A subpoena shall state the name of the Court and the title of the action or investigation, shall be directed to the person whose attendance is required, and in the case of a subpoena duces tecum, it shall also contain a reasonable description of the books, documents or things demanded which must appear to the Court prima facie relevant.[124]

- Subpoena for depositions

Proof of service of a notice to take a deposition, as provided in Secs. 15 and 25 of Rule 23, shall constitute sufficient authorization for the issuance of subpoenas for the person named in said notice by the Clerk of Court of the place in which the deposition is to be taken. The Clerk shall not, however, issue a subpoena duces tecum to any such person without an order of the Court.[125]

All requests for the taking of depositions of witnesses residing abroad should be coursed through the Department of Foreign Affairs.[126]

- Service

Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served, tendering to him the fees for one day's attendance and the kilometrage allowed by the Rules, except that, when a subpoena is issued by or on behalf of the Republic of the Philippines or an officer or agency thereof, the tender need not be made. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. If the subpoena is duces tecum, the reasonable cost of producing the books, documents or things demanded shall also be tendered.[127]

- Court processes to diplomats

In issuing subpoenas to members of the foreign diplomatic missions accredited to the Republic of the Philippines to appear in criminal or civil cases before the City Prosecutors, or Courts in Manila and in cities and provinces outside Manila, the following rules must be observed:

d.1. Court processes and writs issued in connections with cases involving foreign governments or agencies should be forwarded to the Department of Foreign Affairs for transmission to the foreign embassy concerned by diplomatic note.[128]

d.2. Any subpoena or summons addressed to members of the diplomatic corps and non-diplomatic personnel of the different embassies or consulates must be coursed through the Department of Foreign Affairs, with a brief summary of facts of the case attached to the writ or process that may be issued and delivered in connection therewith as a means of enabling the Department of Foreign Affairs to act properly thereon.[129]

d.3. The official issuing the subpoena or summons must see to it that the provisions of Sec. 5 of Rep. Act No. 75, are not violated, to avoid embarrassment not only on the part of the parties concerned but also of the Republic of the Philippines.[130]

d.4. The Department of Foreign Affairs shall be notified by the Court in advance of the date of any trial involving a foreigner in said Court in order to provide said Department with information upon which to base replies to queries addressed to it by foreign diplomatic or consular establishments.[131]

- Subpoena to Register of Deeds

Register of Deeds, in proper cases, should be allowed to be represented by members of his personnel, if and when the latter are in a position to give the information desired by the Court or the parties.[132]

- Subpoena to government employees

For the purpose of reducing to the minimum expenditures for traveling expenses of personnel, utmost care should be taken in the issuance of subpoenas to government officials and employees to appear as witnesses in any investigation or trial of cases. Inquiry should be made from the party asking for the issuance of a subpoena as to the necessity or indispensability of the testimony of the official or employee concerned; likewise, once an official or employee is subpoenaed, efforts should be made to have his testimony taken on the date he is cited to appear or even if the trial of the case is postponed or is not finished, to avoid the witness' making another trip in connection with the case.[133]

- Subpoena to military personnel

If a person in the military service is subpoenaed or requested by the Solicitor General or other appropriate official of the Department of Justice to appear as a witness on behalf of the Government in a civil court, his appearance in a status of detached service should be authorized unless, in time of war, the absence of such person from his station, for the purpose of attending the trial would be unduly prejudicial to the war effort.[134]

- Subpoena for bank deposits in general

All deposits of whatever nature with banking institutions in the Philippines, including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau official, bureau or office, except upon written permission of the depositor, or in cases of impeachment or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation[135] or for violation of Rep. Act No. 9160 (Anti-Money Laundering Act of 2001).[136]

- Quashing a subpoena

The court may quash a subpoena duces tecum upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

The court may quash a subpoena ad testificandum on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by the Rules were not tendered when the subpoena was served.[137]

1.2.2. During Trial

The session hours of all Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trials Courts and Municipal Circuit Trial Courts shall be from 8: 30 a.m. to noon and from 2:00 p.m. to 4:30 p.m., from Monday to Friday. The hours in the morning shall be devoted to the conduct of trial, while the hours in the afternoon shall be utilized for (1) the conduct of pre-trial conferences; (2) writing of decisions, resolutions, or orders; or (3) the continuation of trial on the merits, whenever rendered necessary, as may be required by the Rules of Court, statutes, or circulars in specified cases. However, in multi-sala courts in places where there are few practicing lawyers, the schedule may be modified upon request of the Integrated Bar of the Philippines such that one-half of the branches may hold their trial in the morning and the other half in the afternoon.[138]

The Clerk of Court of a single sala or the Branch Clerk of Court must be present in the courtroom during court sessions.

Upon entry of a case in the trial calendar, the Clerk shall notify the parties of the date of its trial in such manner as shall ensure the receipt of that notice at least five (5) days before such date.[139]

If, for unforeseen causes, the Judge is unable to preside over the hearings set for the day, the Clerk of Court shall, whenever possible, immediately inform the concerned counsels of record through telephone about the absence of the Judge; this is in addition to a written formal notification if time permits. For this purpose, the Clerk of Court shall indicate in the cover of the record of each case the telephone number or numbers of the counsel/s of record. The counsel who has received information about the absence of the Judge may verify the fact, likewise through telephone, from the Clerk of Court concerned.[140]

There should be strict adherence to the policy on avoiding postponements and needless delay. Secs. 2, 3 and 4 of Rule 30, Rules of Civil Procedure (1997), on adjournments and postponements and on the requisites of a motion to postpone trial for absence of evidence or for illness of a party of counsel should be faithfully observed.[141]

1.2.2.1. When the case is ready for trial

A case is ready for trial when the issue or issues are joined and a pre-trial has been conducted in accordance with Rule 18 of the Rules of Court. The issue or issues are joined when all the parties have pleaded their respective theories and the terms of the dispute are plain before the Court.

With respect to Regional Trial Courts constituted as Special Agrarian Courts to handle special agrarian cases, a case is said to be ready for trial upon receipt of the last pleading completing the joinder of the issues or upon expiration of the period for filing a responsive pleading without any such pleading having been filed.

1.2.2.2. Trials and hearings; orders in chambers

All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a Judge in chambers, without the attendance of the Clerk of Court or other court officials.[142] However, Judges are cautioned to avoid in-chamber sessions and to observe prudence at all times in their conduct to the end that they do not only act impartially and with propriety but also perceived to be impartial and proper.

1.2.2.3. Stenographic notes and transcriptions

- Duties of stenographers

It shall be the duty of the stenographer who has attended a session of a Court either in the morning or in the afternoon, to deliver to the Clerk of Court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the Clerk to demand that the stenographer comply with said duty. The Clerk of Court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the Clerk, duly initialed on each page thereof, to be attached to the record of the case. Whenever requested by a party, any statement made by a judge of first instance, or by a commissioner, with reference to a case being tried by him, or to any of the parties thereto, or to any witness or attorney, during the hearing of such case, shall be made of record in the stenographic notes.[143]

a.1. All stenographers are required to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which shall then be joined to the record of the case.

a.2. The stenographer concerned shall accomplish a verified monthly certification as to compliance with this duty. In the absence of such certification or for failure and/or refusal to submit it, his salary shall be withheld.[144]

- Submission of monthly certification

The Stenographer shall submit to the Office of the Court Administrator the verified monthly certification as to compliance with Adm. Circular No. 24-90 dated July 12, 1990 within the first five (5) days of the succeeding month.

- Transfer, retirement, separation or death of stenographer

In view of the frequent transfer of stenographers from one court to another, and in order to avoid notices to file transcripts being misdirected, all Clerks of Court are instructed to attach to the records of appealed cases, information on the name or names and addresses of the stenographers who have transcripts to make in each case for the purpose of appeal.[145]

c.1. In case a stenographer dies or is otherwise incapacitated, his untranscribed stenographic notes shall be immediately transcribed by the other stenographers, if this can be done. If not, and the notes untranscribed involve controverted issues, a rehearing on those points should be ordered.[146]

c.2. No stenographer shall be allowed to resign from the service or allowed to retire optionally without submitting all the transcript of stenographic notes taken by him. A stenographer due for compulsory retirement must submit to the Judge/Clerk of Court transcript of all pending stenographic notes taken by him, three (3) months before retirement date.[147]

No terminal leave or retirement pay shall be paid to a stenographer without a verified statement that all his stenographic notes have been transcribed and delivered to the proper Court, confirmed by the Executive Judge of the Court concerned.[148]

c.3. A stenographer shall not be allowed to travel abroad if he has pending untranscribed notes, unless otherwise authorized by the Court upon urgent grounds.[149]

- Transcripts for indigent or low-income litigants

d.1. A party may be authorized to litigate his action, claim or defense as an indigent if the Court, upon an ex parte

application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

d.2. Such authority shall include an exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the Court may order to be furnished him.[150]

d.3. In cases before the Special Agrarian Courts, where a party is a tenant-farmer, agricultural lessee or tiller, settler, or amortizing owner-cultivator, he shall be entitled to the rights of a pauper and/or indigent litigant and the privileges of an indigent litigant under Rep. Act No. 6035 without further proof thereof. He shall continue to enjoy such status as pauper and/or indigent litigant in the appellate Courts and until the case is finally disposed of.[151]

d.4. An agricultural tiller, tenant or lessee who has been allowed to litigate as a pauper and/or indigent litigant shall be entitled to the issuance of a duly certified copy of the transcript of stenographic notes of the hearing, which shall be given to him free of charge. Any undue delay in the transcription of the stenographic notes or in the issuance of a duly certified copy of said transcript in favor of said party and any charging of fees against him in connection therewith shall be dealt with administratively.[152]

d.5. Sanctions

Any stenographer who, after due hearing in accordance with the pertinent provisions of the Civil Service Law (Pres. Decree No. 807, as amended), has been found to have violated the provisions of Sec. 1 of Rep. Act No. 6035 or has unreasonably delayed the giving of a free certified transcript of notes to an indigent or low-income litigant shall be subject to the following disciplinary actions:[153]

- suspension from office for a period of not exceeding thirty (30) days upon finding of guilt for the first time;
- suspension from office for not less than thirty (30) days and not more than sixty (60) days upon finding of guilt for the second time;
- removal from office upon finding of guilt for the third time.

1.2.2.4. Trial by commissioner

- Reference by consent

By written consent of both parties, the Court may order any or all of the issues in a case to be referred to a commissioner to be agreed upon by the parties or to be appointed by the Court. As used in the Rules, the word "commissioner" includes a referee, an auditor and an examiner.[154]

- Reference on motion[155]

When the parties do not consent, the Court may, upon the application of either or of its own motion, direct a reference to a commissioner in the following cases:

b.1. When the trial of an issue of fact requires the examination of a long account on either side, in which case the commissioner may be directed to hear and report upon the whole issue or any specific question involved therein;

b.2. When the taking of an account is necessary for the information of the Court before judgment, or for carrying a judgment or order into effect; and

b.3. When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect.

- Order of reference; powers of commissioner

When a reference is made, the Clerk shall forthwith furnish the commissioner with a copy of the order of reference. The order may specify or limit the powers of the commissioner, and may direct him to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his report. Subject to the specifications and limitations stated in the order, the commissioner has and shall exercise the power to regulate the proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may issue subpoenas and subpoenas duces tecum, swear witness, and unless otherwise provided in the order of reference, he may rule upon the admissibility of evidence. The trial or hearing before him shall proceed in all respects as it would if held before the Court.[156]

- Report of commissioner

Upon the completion of the trial or hearing or proceeding before the commissioner, he shall file with the Court his report in writing upon the matters submitted to him by the order of reference. When his powers are not specified or limited, he shall set forth his findings of fact and conclusions of law in his report. He shall attach thereto all exhibits, affidavits, depositions, papers and the transcript, if any, of the testimonial evidence presented before him.[157]

- Notice to parties of the filing of report

Upon the filing of the report, the parties shall be notified by the Clerk, and they shall be allowed ten (10) days within which to signify the grounds of objections to the findings of the report, if they so desire. Objections to the report based upon ground which were available to the parties during the proceedings before the commissioner, other than objections to the findings and conclusions therein set forth, shall not be considered by the Court unless they were made before the commissioner.[158]

- Hearing upon report

Upon the expiration of the period of ten (10) days referred to in Sec. 10 of Rule 32, the report shall be set for hearing, after which the Court shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the commissioner or the Court.[159]

- Compensation of commissioner

The Court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires.[160]

1.2.2.5. Judge to receive evidence; delegation to the Clerk of Court

The Judge of the Court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or ex parte hearings, and in any case where the parties agree in writing, the Court may delegate the reception of evidence to its Clerk of Court who is a member of the bar. The Clerk of Court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the Court upon submission of his report and the transcripts within ten (10) days from termination of the hearing.[161]

1.2.2.6. Guidelines and procedures[162]

- Unless the docket of the Court requires otherwise, not more than four (4) cases shall be scheduled for trial daily.

- Contingency measures must, likewise, be taken for any unexpected absence of the stenographer and other support staff assisting in the trial.
- The issuance and service of subpoena shall be done in accordance with Administrative Circular No.4 dated September 22, 1988.
- The Judge shall conduct trial with utmost dispatch, with judicious exercise of the Court's power to control trial proceedings to avoid delay.
- The Judge must take notes of the material and relevant testimonies of witnesses to facilitate his decision-making.
- The trial shall be terminated within ninety (90) days from initial hearing. Appropriate disciplinary sanctions may be imposed on the Judge and the lawyers for failure to comply with this requirement due to causes attributable to them.
- Each party is bound to complete the presentation of his evidence within the trial dates assigned to him. After the lapse of said dates, the party is deemed to have completed the presentation of evidence. However, upon verified motion based on compelling reasons, the Judge may allow a party additional trial dates in the afternoon; provided that the extension will not go beyond the three-month limit computed from the first trial date, except when authorized in writing by the Court Administrator, Supreme Court.

1.2.3. After Trial

1.2.3.1. When case is submitted for decision

The Presiding Judge must have a calendar of cases submitted for decision, noting the exact day, month and year when the 90-day period is to expire. As soon as a case is submitted for decision, this must be noted in the calendar of the Judge, the records duly collated with the exhibits and the transcripts of stenographic notes, as well as the trial notes of the Judge, and placed in his chambers.[163]

1.2.3.2. Judgment

- Rendition of judgment and final orders

A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the Judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the Clerk of Court.[164]

- Copies of judgments

b.1. Copies of all judgments rendered by trial courts shall be furnished the Office of the Court Administrator within ten rendition.[165]

b.2. The original copies of such judgments are fastened to the particular records of the case.

b.3. Issuance of certified true copies of decisions and orders:

- All Clerks of Court, Division Clerks of Court, and Branch Clerks of Court must issue certified true copies of all decisions, resolutions and orders duly signed and promulgated by their respective Courts being initially transmitted and furnished the parties, including orders promulgated in open court.
- The practice of merely furnishing the parties plain copies has posed difficulties to parties desiring to file petitions for review whenever the Rules of Court and existing circulars require the submission of certified true copies.

- The certified true copies initially furnished the parties upon promulgation of the decision, resolution or orders shall be without cost. Requests for additional certified true copies shall be complied with upon payment of appropriate legal fees.[166]

- Entry of judgments and final orders

If no appeal or motion for new trial or reconsideration is filed within the time provided in the Rules, the judgment or final order shall forthwith be entered by the Clerk in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment or final order and shall be signed by the Clerk, with a certificate that such judgment or final order has become final and executory.[167]

- Judgment and entries book

The Clerk shall keep a judgment book containing a copy of each judgment rendered by the Court in the order of its date, and a book of entries of judgment containing at length in chronological order entries of all final judgments or orders of the Court.[168]

- Entering judgments, purely ministerial

In entering judgments, the Clerk acts in a purely ministerial capacity and exercises no judicial functions. He acts merely as an agent to write out and place upon the record judgments which he is authorized and directed by law to enter. The entry of judgment shall be exactly as it was rendered by the Court without addition, diminution, or change of any kind.

- Finality

If no appeal or motion for reconsideration/relief/new trial is filed within the time allowed by the Rules, judgments or decisions, orders, resolutions or awards become final:

f.1. As a general rule, after fifteen (15) days from notice [169]

f.2. In special proceedings, within thirty (30) days from notice[170]

- Recording judgments in expropriation proceedings and its effects

The judgment entered in expropriation proceedings shall state definitely, by an adequate description, the particular property or interest therein expropriated, and the nature of the public use or purpose for which it is expropriated. When real estate is expropriated, a certified copy of such judgment shall be recorded in the registry of deed of the place in which the property is situated, and its effect shall be to vest in the plaintiff the title to the real estate so described for such public use or purpose.[171]

- Registration in judicial foreclosure of mortgage[172]

A certified copy of the final order of the Court confirming the sale shall be registered in the registry of deeds. If no right of redemption exists, the certificate of title in the name of the mortgagor shall be cancelled, and a new one issued in the name of the purchaser.

Where a right of redemption exists, the certificate of title in the name of the mortgagor shall not be cancelled, but the certificate of sale and the order confirming the sale shall be registered and a brief memorandum thereof made by the registrar of deeds upon the certificate of title. In the event the property is redeemed, the deed of redemption shall be registered with the registry of deeds, and a brief memorandum thereof shall be made by the registrar of deeds on said certificate of title.

If the property is not redeemed, the final deed of sale executed by the sheriff in favor of the purchaser at the foreclosure sale shall be registered with the registry of deeds; whereupon the certificate of title in the name of the mortgagor shall be cancelled and a new one issued in the name of the purchaser.

1.2.3.3. Service of judgments and/or decisions

- General rule

a.1. Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party.[173]

a.2. For a more effective control of service of final orders, resolutions, judgments or decisions, the names and addresses of the parties/counsel concerned and the manner of service to them shall be indicated on the last page thereof, unless a separate form for notice of judgment is provided for the purpose.

a.3. Clerks of Court and Branch Clerks of Court must issue certified true copies of all decisions, resolutions, and orders duly signed and promulgated by their respective courts being initially transmitted and furnished the parties, including orders promulgated in open court.[174]

- In guardianship proceedings

Final orders or judgments in guardianship proceedings shall be served upon the civil registrar of the municipality or city where the minor or incompetent person resides or where his property or part thereof is situated.[175]

- In cases of adoption and custody of minors

Final orders or judgments in cases of adoption and custody of minors shall be served upon the civil registrar of the city or municipality wherein the court issuing the same is situated, and recorded in the local civil register, as well as on the civil registrar of the place of birth of the adopted for issuance of an amended birth certificate.[176]

- In proceedings for rescission and revocation of adoption

A certified copy of the judgment rendered in rescission and revocation of adoption proceedings shall, within thirty (30) days after rendition thereof, be served upon the civil registrar concerned who shall forthwith enter the action taken by the Court in the register.[177]

- In proceedings for change of name

Judgments or orders rendered in connection with these proceedings shall be furnished the civil registrar of the municipality or city where the Court issuing the same is situated.[178]

In actual practice, a copy of the same judgment is also served on the civil registrar of the municipality or city where the birth of the petitioner is registered.

- In actions affecting children under the Family Code

Although the Family Code does not provide service of judgment/decision in: (a) an action to impugn legitimacy of the child under Article 170; (b) an action to claim legitimacy under Article 173; and (c) an action to establish illegitimate filiation under Article 175, in actual practice, copies of the judgment or decision in such cases are furnished the civil registrar of the city or municipality where the birth of the child concerned is registered.

- In proceedings for cancellation or correction of entries in the civil registry

After hearing, the Court may either dismiss the petition or issue an order granting the cancellation or correction

prayed for. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in his record.[179]

- In proceedings affecting marriage

h.1. The judgment of annulment or of absolute nullity of the marriage, the partition and distribution of the properties of the spouses, and the delivery of the children's presumptive legitimes shall be recorded in the appropriate civil registry and registries of property; otherwise, the same shall not affect third persons.[180]

h.2. The petition for separation of property and the final judgment granting the same shall be recorded in the proper local civil registries of property.[181]

1.2.3.4. Costs

- Costs ordinarily follow results of suit

Unless otherwise provided, costs shall be allowed to the prevailing party as a matter of course, but the Court shall have power, for special reasons, to adjudge that either party shall pay the costs of an action or that the same be divided, as may be equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.[182]

- Costs, how taxed

In inferior courts, the costs shall be taxed by the judge concerned and included in the judgment. x x x The costs shall be inserted in the judgment if taxed before its entry and payment thereof shall be enforced by execution.[183]

- Judgment for costs in quo warranto

In an action brought in accordance with the provisions of Rule 66, the Court may render judgment for costs against either the petitioner, the relator, or the respondent, or the person or persons claiming to be a corporation, or may apportion the costs, as justice requires.[184]

- Costs and expenses to be taxed and collected on partition

The Court shall equitably tax and apportion between or among the parties the costs and expenses which accrue in the action, including the compensation of the commissioners, having regard to the interests of the parties, and execution may issue therefor as in other cases.[185]

- Record of writ, fees and costs in habeas corpus

The proceedings upon a writ of habeas corpus shall be recorded by the Clerk of Court, and upon the final disposition of such proceedings, the Court or Judge shall make such order as to costs as the case requires. The fees of officers and witnesses shall be included in the costs taxed, but no officer or person shall have the right to demand payment in advance of any fees to which he is entitled by virtue of the proceedings. When a person confined under color of proceedings in a criminal case is discharged, the costs shall be taxed against the Republic of the Philippines, and paid out of its Treasury; when a person in custody by virtue or under color of proceedings in a civil case is discharged, the costs shall be taxed against him, or against the person who signed the application for the writ, or both, as the Court shall direct.[186]

1.2.3.5. Appeal

- Appeal from the Municipal Trial Courts to the Regional Trial Courts

a.1. Procedure in the Regional Trial Court[187]

- Upon receipt of the complete record or the record on appeal, the Clerk of Court of the Regional Trial Court shall notify the parties of such fact.
- Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.
- Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed.

a.2. Appeal from orders dismissing case without trial; lack of jurisdiction[188]

If an appeal is taken from an order of lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereof, shall try the case on the merits as if the case was originally filed with it. In case of reversal, the case shall be remanded for further proceedings.

If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with Sec. 7 of Rule 40, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice.

- Appeal from the Regional Trial Courts

b.1. Modes of appeal[189]

- Ordinary appeal

The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the Court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or the Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

- Petition for review

The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

- Appeal by certiorari

In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.

b.2. Period of ordinary appeal[190]

The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

b.3. Appellate court docket and other lawful fees

Within the period for taking an appeal, the appellant shall pay to the Clerk of Court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.[191]

b.4. Notice of appeal

The notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the Court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.[192]

b.5. Perfection of appeal; effect thereof[193]

A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

In appeals by notice of appeal, the Court loses jurisdiction over the case upon the perfection of the appeal filed in due time and the expiration of the time to appeal of the other parties.

In appeals by record on appeal, the Court loses jurisdiction only over the subject matter thereof upon the approval of the record on appeal filed in due time and the expiration of the time to appeal of the other parties.

In either case, prior to the transmittal of the original record or the record on appeal, the Court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Sec. 2 of Rule 39, and allow withdrawal of the appeal.

b.6. Duty of Clerk of Court of the lower court upon perfection of appeal [194]

Within thirty (30) days after perfection of all the appeals in accordance with Sec. 9 of Rule 41, it shall be the duty of the Clerk of Court of the lower court:

- To verify the correctness of the original record or the record on appeal, as the case may be, and to make a certification of its correctness;
- To verify the completeness of the records that will be transmitted to the appellate court;
- If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the Court may exercise for this purpose; and
- To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

The Clerk of Court shall furnish the parties with copies of his letter of transmittal of the records to the appellate

court.

b.7. Transcript

Upon the perfection of the appeal, the Clerk shall immediately direct the stenographers concerned to attach to the record of the case five (5) copies of the transcripts of the testimonial evidence referred to in the record on appeal. The stenographers concerned shall transcribe such testimonial evidence and shall prepare and affix to their transcripts an index containing the names of the witnesses and the pages wherein their testimonies are found, and a list of the exhibits and the pages wherein each of them appears to have been offered and admitted or rejected by the trial court. The transcripts shall be transmitted to the Clerk of the trial court who shall thereupon arrange the same in the order in which the witnesses testified at the trial, and shall cause the pages to be numbered consecutively.[195]

b.8. Transmittal

The Clerk of the trial court shall transmit to the appellate court the original record or the approved record on appeal within thirty (30) days from the perfection of the appeal, together with the proof of payment of the appellate court docket and other lawful fees, a certified true copy of the minutes of proceedings, the order of approval, the certificate of correctness, the original documentary evidence referred to therein, and the original and three (3) copies of the transcripts. Copies of the transcripts and certified true copies of the documentary evidence shall remain in the lower court for the examination of the parties.[196]

b.9. Dismissal of appeal

Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may, motu proprio, or on motion, dismiss the appeal for having been taken out of time or for non-payment of the docket and other lawful fees within the reglementary period.

- Petition for Review from the Regional Trial Courts to the Court of Appeals

c.1. How appeal taken; time for filing

A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the Clerk of said Court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.[197]

c.2. Elevation of record

Whenever the Court of Appeals deems it necessary, it may order the Clerk of Court of the Regional Trial Court to elevate the original record of the case including the oral and documentary evidence within fifteen (15) days from notice.[198]

c.3. Perfection of appeal; thereof[199]

- Upon the timely filing of a petition for review and the payment of the corresponding docket and other lawful

fees, the appeal is deemed perfected as to the petitioner.

The Regional Trial Court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

However, before the Court of Appeals gives due course to the petition, the Regional Trial Court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Sec. 2 of Rule 39, and allow withdrawal of the appeal.

- Except in civil cases decided under Rule on Summary Procedure, the appeal shall stay the judgment or final order unless the Court of Appeals, the law, or the Rules shall provide otherwise.

1.2.3.6. Guidelines in the archiving of civil cases [200]

- In civil cases, the Court may motu proprio or upon motion, order that a civil case be archived only in the following instances:

a.1. When the parties are in the process of settlement, in which case the proceedings may be suspended and the case archived for a period not exceeding ninety (90) days. The case shall be included in the trial calendar on the day immediately following the lapse of the suspension period.

a.2. When an interlocutory order or incident in the civil case is elevated to, and is pending resolution/ decision for an indefinite period before, a higher Court which has issued a temporary restraining order or writ of preliminary injunction.

a.3. When defendant, without fault or neglect of plaintiff, cannot be served with summons within six (6) months from issuance of original summons.

- General provisions

b.1. Copies of the order archiving the case shall be furnished the parties.

b.2. A special docket shall be maintained to record the cases both criminal and civil that have been archived.

b.3. A periodic review of the archived cases shall be made by the Presiding Judge.

b.4. The Presiding Judge shall, motu proprio or upon motion by any party, order the reinstatement/ revival of an archived case and its withdrawal from the archives whenever the same is ready for trial or further proceedings.

b.5. The Branch Clerk of Court shall submit to the Office of the Court Administrator a consolidated list of archived cases not later than the first week of January of every year.

1.3. Single Sala and Branch of a Multiple Sala – in Criminal Cases

1.3.1. Before Trial

1.3.1.1. Designation of Clerks of Court of Regional Trial Courts as Ex-Officio Clerks of Court of the Sandiganbayan:[201]

- All Clerks of Court of Regional Trial Courts all over the country (except those in the National Capital Judicial Region) are hereby designated as Ex-Officio Clerks of Court of the Sandiganbayan with the limited duty of receiving informations resulting from inquest investigations of offenses cognizable by the Sandiganbayan which were conducted by authorized prosecutors within their territorial jurisdiction, and transmitting the same to the

Sandiganbayan within five (5) days from the filing thereof.

- The information shall be filed with the Clerk of Court of the Regional Trial Court whose territorial area includes the place where the crime was committed. The filing with the said Clerk of Court shall have the effect of such information being filed directly with the Sandiganbayan.

- The Executive Judge of the Regional Trial Court where the information was filed is hereby authorized to approve the application of the accused for bail, except in offenses punishable by death, reclusion perpetua or life imprisonment, and to order his release from detention subject to further orders by the Sandiganbayan. This authority does not include the power to act on any motion for reduction of the amount of the bail recommended by the prosecutor.

1.3.1.2. Institution of criminal actions[202]

Criminal actions shall be instituted as follows:

- For offenses where a preliminary investigation is required pursuant to Sec. 1 of Rule 112, by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation.

- For all other offenses, by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters.

The institution of the criminal action shall interrupt the running of the period of prescription of offense charged unless provided in special laws.

1.3.1.3. Prosecution of action

- Institution of criminal and civil actions[203]

When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

The reservation of the right to institute separately the civil action shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees therefor shall constitute a first lien on the judgment awarding such damages.

Where the amount of damages, other than actual, is specified in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court.

Except as otherwise provided in the Rules, no filing fees shall be required for actual damages.

No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action.

- When separate civil action is suspended[204]

After the criminal action has been commenced, the separate civil action arising therefrom cannot be instituted until final judgment has been entered in the criminal action.

If the criminal action is filed after the said civil action has already been instituted, the latter shall be suspended in whatever stage it may be found before judgment on the merits. The suspension shall last until final judgment is rendered in the criminal action. Nevertheless, before judgment on the merits is rendered in the civil action, the same may, upon motion of the offended party, be consolidated with the criminal action in the court trying the criminal action. In case of consolidation, the evidence already adduced in the civil action shall be deemed automatically reproduced in the criminal action without prejudice to the right of the prosecution to cross-examine the witnesses presented by the offended party in the criminal case and of the parties to present additional evidence. The consolidated criminal and civil actions shall be tried and decided jointly.

During the pendency of the criminal action, the running of the period of prescription of the civil action which cannot be instituted separately or whose proceeding has been suspended shall be tolled.

The extinction of the penal action does not carry with it extinction of the civil action. However, the civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.

- When civil action may proceed independently

In the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action may be brought by the offended party. It shall proceed independently of the criminal action and shall require only a preponderance of evidence. In no case, however, may the offended party recover damages twice for the same act or omission charged in the criminal action.[205]

- Effect of death on civil actions[206]

The death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. However, the independent civil action instituted under Sec. 3 of Rule III or which thereafter is instituted to enforce liability arising from other sources of obligation may be continued against the estate or legal representative of the accused after proper substitution or against said estate, as the case may be. The heirs of the accused may be substituted for the deceased without requiring the appointment of an executor or administrator and the Court may appoint a guardian ad litem for the minor heirs.

The Court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

A final judgment entered in favor of the offended party shall be enforced in the manner especially provided in the Rules for prosecuting claims against the estate of the deceased.

If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased.

- Judgment in civil action not a bar

A final judgment rendered in a civil action absolving the defendant from civil liability is not a bar to a criminal action against the defendant for the same act or omission subject of the civil action.[207]

- Suspension by reason of prejudicial question

A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests. [208]

1.3.1.4. Arrest

- When warrant of arrest may issue

Within ten (10) days from the filing of the complaint or information, the Judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the Judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to Sec. 7 of Rule 112. In case of doubt on the existence of probable cause, the Judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the Court within thirty (30) days from the filing of the complaint or information.[209]

- When warrant of arrest not necessary

A warrant of arrest shall not issue if the accused is already under detention pursuant to a warrant issued by the Municipal Trial Court in accordance with paragraph (b) of Sec. 6 of Rule 112, or if the complaint or information was filed pursuant to Sec. 7 of Rule 112 or is for an offense penalized by fine only. The Court shall then proceed in the exercise of its original jurisdiction.[210]

- Execution of warrant

The head of office to whom the warrant of arrest was delivered for execution shall cause the warrant to be executed within ten (10) days from its receipt. Within ten (10) days after the expiration of the period, the officer to whom it was assigned for execution shall make a report to the Judge who issued the warrant. In case of his failure to execute the warrant, he shall state the reasons therefore.[211]

- Furnishing the Criminal Investigation Service Command National Capital Judicial Region copies of warrants of arrest.

All Clerks of Court and Branch Clerks of Court of the Regional Trial Courts are directed to furnish copies of warrants of arrest issued by the Courts to the authorized liaison officers of the Criminal Investigation Service Command.[212]

- Guidelines in issuing warrants of arrest[213]

e.1. In issuing the warrants of arrest, the pictures of the accused, whenever available or feasible, or a summary of the physical description of the accused, must be appended to the warrants before the same are transmitted to the law enforcement agencies for service;

e.2. Companies or entities engaged in the business of bailing out accused persons shall maintain a personal data file of all their clients, particularly those who jumped bail, and make these data available to law enforcement operatives once a warrant is issued for their arrest.

1.3.1.5. Admission and processing of bail

- Bail defined

Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, to guarantee his appearance before any court as required under the conditions hereinafter specified.[214]

- Classification of bail

b.1. Bail bond

It is an obligation given by the accused with one or more sureties with the condition that it shall be void upon the performance by the accused of such acts as he may legally be required to perform.

- Corporate surety bond

Any domestic or foreign corporation, licensed as a surety in accordance with law and currently authorized to act as such, may provide bail by a bond subscribed jointly by the accused and an officer of the corporation duly authorized by its board of directors.[215]

- Property bond, how posted

A property bond is an undertaking constituted as lien on the real property given as security for the amount of the bail. Within ten (10) days after the approval of the bond, the accused shall cause the annotation of the lien on the certificate of title on file with the Registry of Deeds if the land is registered, or if unregistered, in the Registration Book on the space provided therefor, in the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial, city and municipal assessor concerned.

Within the same period, the accused shall submit to the Court his compliance and his failure to do so shall be sufficient cause for the cancellation of the property bond and his re-arrest and detention.[216]

- Deposit of cash as bail

The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue or provincial, city, or municipal treasurer the amount of bail fixed by the Court, or recommended by the prosecutor who investigated or filed the case. Upon submission of a proper certificate of deposit and a written undertaking showing compliance with the requirements of Sec. 2 of Rule 114, the accused shall be discharged from custody. The money deposited shall be considered as bail and applied to the payment of fine and costs while the excess, if any, shall be returned to the accused or to whoever made the deposit. [217]

The accused may, likewise, file cash bond with the Clerk of Court.

b.2. Recognizance

Whenever allowed by law or the Rules, the Court may release a person in custody on his own recognizance or that of a responsible person.[218]

- Conditions of the bail; requirements [219]

All kinds of bail are subject to the following conditions:

c.1. The undertaking shall be effective upon approval, and unless cancelled, shall remain in force at all stages of the case until promulgation of the judgment of the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to it.

c.2. The accused shall appear before the proper Court whenever required by the Court or the Rules.

c.3. The failure of the accused to appear at the trial without justification and despite due notice shall be deemed a waiver of his right to be present thereat. In such case, the trial may proceed in absentia; and

c.4. The bondsman shall surrender the accused to the Court for execution of final judgment.

The original papers shall state the full name and address of the accused, the amount of the undertaking and the conditions required by Sec. 2 of Rule 114. Photographs (passport size) taken within the last six (6) months showing the face, left and right profiles of the accused must be attached to the bail.

The accused shall accomplish and submit to the Court the form prescribed by Memorandum Circular No.2 issued by the Supreme Court on May 26, 1980.

The accused shall, likewise, submit identification papers, i.e. driver's license, voter's ID, or, in the absence thereof, a certification from the barangay captain of the place where he resides attesting to his identity and residence in the place.

- Specific requisites

- d.1. For surety bond

In accepting surety bond, the Clerk of Court should see to it that the following requisites are complied with otherwise, the bond should be rejected:

- Photographs of accused

It shall be obligatory on the part of surety and bonding companies issuing such bond to attach photographs (face, left and right profiles), passport size, recently taken of the accused on all copies of the corresponding personal bail bond to be issued or posted.[220]

- Affidavit of justification

The bond shall be accompanied by an affidavit of justification to include a statement to the effect that the company has no pending obligation demandable and outstanding in any amount to the Government or any of its agencies as of the last day of the month preceding the date the bond is issued or posted.[221]

- Clearance from the Supreme Court

Every bond shall be accompanied by a clearance from the Supreme Court showing that the company concerned is qualified to transact business which is valid only for thirty (30) days from the date of its issuance.[222]

- Certificate of compliance with the Circular from the Office of the Insurance Commissioner

The bond shall be accompanied by a verified certification to the effect that the bond form used has been duly registered with the Insurance Commission; that the same has been entered and recorded in the Bond Registry Book of the company concerned in compliance with OIC Circular No. 66 dated September 19, 1966, and that said bond has not been cancelled.[223]

- Authority of agent

In case the bond is issued through a branch office or through an agent, a copy of the authority or power of attorney shall be submitted to the Clerk of Court for filing, together with the schedule of limits of its authority.

- Current certificate of authority

The bond shall be accompanied by a current certificate of authority issued by the Insurance Commission with the financial statement (OIC Form No.1) showing the maximum underwriting capacity of the company.[224]

- Procedure

All applications for bail! judicial bonds, before their approval by the Judge concerned, shall be coursed thru the Clerk of Court or his duly authorized personnel who shall see to it that the bond is in order and the signature of the bonding officer authentic before affixing his signature thereto. He shall also indicate therein the outstanding liability of the bonding company, if any, for the information and guidance of the Court. For this particular purpose, the Clerk of Court shall keep a file of specimen signature of authorized bonding officers, to prevent the

submission of "fake bail bonds".[225]

d.2. For property bond

- Proper scrutiny

To prevent the commission of frauds in connection with the posting of property bonds and to protect the interests of the government, utmost care should be exercised in the scrutiny of the qualifications of sureties in the approval of property bonds, and efforts exerted to determine whether or not the person executing the undertaking is the real owner of the property offered. To eliminate or minimize possible anomalies on the matter, the Court, in doubtful cases, shall examine the sureties under oath concerning their sufficiency as provided for in Sec. 13, Rule 114. The Court shall not accept as property bonds real properties not covered by certificates of title unless they have been declared for taxation purposes in favor of the person offering them as bond for at least five (5) years.[226]

- Qualifications of sureties in property bond[227]

- Each must be a resident owner of real estate within the Philippines;

- Where there is only one surety, his real estate must be worth at least the amount of the undertaking;

- If there are two (2) or more sureties, each may justify in an amount less than that expressed in the undertaking but the aggregate of the justified sums must be equivalent to the whole amount of the bail demanded.

In all cases, every surety must be worth the amount specified in his own undertaking over and above all just debts, obligations and properties exempt from execution.

- Guidelines

- Property registered under the Torrens System should be preferred to one covered merely by a tax declaration;

- The receipt of payment of the latest real estate tax shall accompany the title or tax declaration;

- The original of the certificate of title or tax declaration must be presented to the Court with photographs of the accused as required in surety bonds, and the Clerk of Court should see to it that the corresponding annotation of the encumbrances is made on the title or tax declaration.

d.3. For cash bond

An official receipt/certificate of deposit signed by the Clerk of Court with photograph of the accused should be presented to the Court.

d.4. For recognizance

Instead of bail, the person charged with any offense contemplated by Sec. 1 of Rep. Act No. 6036 should be required to sign in the presence of two (2) witnesses of good standing in the community a sworn statement binding himself, pending final decision of his case, to report to the Clerk of Court hearing his case periodically every two (2) weeks. The Court may, in its discretion and with the consent of the person charged, require further that he be placed under the custody and subject to the authority of a responsible citizen in the community who may be willing to accept the responsibility. In such a case, the affidavit herein mentioned shall include a statement of the person charged that he binds himself to accept the authority of the citizen so appointed by the Court. The Clerk of Court shall immediately report the presence of the accused person to the Court. Except when his failure to report is for justifiable reasons, including circumstances beyond his control, to be determined by the Court, any violation of this sworn statement shall justify the Court to order his immediate arrest unless he files bail in the amount forthwith fixed by the Court. [228]

- Bail, when not required; reduced bail or recognizance[229]

No bail shall be required when the law or the Rules so provide.

When a person has been in custody for a period equal to or more than the possible maximum imprisonment prescribed for the offense charged, he shall be released immediately, without prejudice to the continuation of the trial or the proceedings on appeal. If the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on reduced bail or on his own recognizance, at the discretion of the Court.

- . Bail, where filed[230]

f.1. Bail in the amount fixed may be filed with the Court where the case is pending, or in the absence or unavailability of the Judge thereof, with any Regional Trial Judge, Metropolitan Trial Judge, Municipal Trial Judge, or Municipal Circuit Trial Judge in the province, city or municipality. If the accused is arrested in a province, city, or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no Judge thereof is available, with any Metropolitan Trial Judge, Municipal Trial Judge, or Municipal Circuit Trial Judge therein.

f.2. Where the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application may only be filed in the Court where the case is pending, whether on preliminary investigation, trial or appeal.

f.3. Any person in custody who is not yet charged in Court may apply for bail with any Court in the province, city, or municipality where he is held.

- Notice of application to prosecutor

In the application for bail under Sec. 8 of Rule 114, the Court must give reasonable notice of hearing to the prosecutor or require him to submit his recommendation.[231]

- Release on bail[232]

The accused must be discharged upon approval of the bail by the Judge with whom it was filed in accordance with Sec. 17 of Rule 114.

When bail is filed with a Court other than where the case is pending, the Judge who accepted the bail shall forward it, together with the order of release and other supporting papers, to the Court where the case is pending, which may, for good reason, require a different one to be filed.

- Increase or reduction of bail

After the accused is admitted to bail, the Court may, upon good cause, either increase or reduce its amount. When increased, the accused may be committed to custody if he does not give bail in the increased amount within a reasonable period. An accused held to answer a criminal charge, who is released without bail upon filing of the complaint or information, may, at any subsequent stage of the proceedings and whenever a strong showing of guilt appears to the Court, be required to give bail in the amount fixed, or in lieu thereof, committed to custody.[233]

- Forfeiture of bail

j.1. When the presence of the accused is required by the Court or the Rules, his bondsmen shall be notified to produce him before the Court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their principal and to show cause why no judgment should be rendered against them for the amount of their bail. Within the said period, the bondsmen must:

- produce the body of their principal or give the reason for his non-production; and
- explain why the accused did not appear before the Court when first required to do so. Failing in these two (2) requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The Court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted.[234]

j.2. Judgments of forfeiture and writs of execution on bail/judicial bonds [235]

All Branch Clerks of Court shall furnish the Clerk of Court a copy of all judgments of forfeiture and writs of execution, including subsequent orders/proceedings relative thereto. The Clerk of Court shall keep a separate file of such orders for his ready reference.

The Clerk of Court shall submit to the Office of the Court Administrator a quarterly report of all bonding companies with outstanding obligations, the amount executed together with the judgment of forfeiture and writ of execution, and subsequent motions/orders relative thereto.

- Cancellation of bail[236]

Upon application of the bondsmen, with due notice to the prosecutor, the bail may be cancelled upon surrender of the accused or proof of his death.

The bail shall be deemed automatically cancelled upon acquittal of the accused, dismissal of the case, or execution of the judgment of conviction.

In all instances, the cancellation shall be without prejudice to any liability on the bail.

- Notification to bondsmen

Whenever a bond is given for the provisional liberty of the accused and the same has been ordered cancelled or released by the Court after it has already served its purpose, the bondsmen or bonding company must be immediately notified.[237]

- Arrest of accused out on bail[238]

For the purpose of surrendering the accused, the bondsmen may arrest him or, upon written authority endorsed on a certified copy of the undertaking, cause him to be arrested by a police officer or any other person of suitable age and discretion.

An accused released on bail may be re-arrested without the necessity of a warrant if he attempts to depart from the Philippines without permission of the Court where the case is pending.

- No bail after final judgment; exception

No bail shall be allowed after a judgment of conviction has become final. If before such finality, the accused applies for probation, he may be allowed temporary liberty under his bail. When no bail was filed or the accused is incapable of filing one, the Court may allow his release on recognizance to the custody of a responsible member of the community. In no case shall bail be allowed after the accused has commenced to serve sentence.[239]

- Court supervision of detainees[240]

The Court shall exercise supervision over all persons in custody for the purpose of eliminating unnecessary detention. The Executive Judges of the Regional Trial Courts shall conduct monthly personal inspections of provincial, city, and municipal jails and the prisoners within their respective jurisdictions. They shall ascertain the number of detainees, inquire on their proper accommodation and health, and examine the condition of the jail facilities. They shall order the segregation of sexes and of minors from adults, ensure the observance of the right of detainees to confer privately with counsel, and strive to eliminate conditions inimical to the detainees.

In cities and municipalities to be specified by the Supreme Court, the Municipal Trial Judges or Municipal Circuit Trial Judges shall conduct monthly personal inspections of the municipal jails in their respective municipalities and submit a report to the Executive Judge of the Regional Trial Court having jurisdiction therein.

A monthly report of such visitation shall be submitted by the Executive Judges to the Court Administrator which shall state the total number of detainees, the names of those held for more than thirty (30) days, the duration of detention, the crime charged, the status of the case, the cause of detention and other pertinent information.

- Bail not a bar to objections on illegal arrest, lack of or irregular preliminary investigation

An application for or admission to bail shall not bar the accused from challenging the validity of his arrest or the legality of the warrant issued therefor, or from assailing the regularity or questioning the absence of a preliminary investigation of the charge against him, provided that he raises them before entering his plea. The Court shall resolve the matter as early as practicable but not later than the start of the trial of the case.[241]

- Forfeited bonds; delinquent companies

All Clerks of Court are required to submit to the Supreme Court monthly reports on judicial bonds filed that were forfeited during the preceding month, showing the case number, name of the accused, the amount of the bond, the date of acceptance, statements of the amounts of forfeited bonds and bonds ordered executed but which remain unsatisfied, indicating the companies filing said bonds and the dates of forfeiture and orders of execution, as the case may be.[242]

Trial Judges should, as a matter of precaution, course the bonds through the Clerk of Court for verification before approving the same.[243]

- Cancellation of bail bond of accused convicted of capital offense in the Regional Trial Court[244]

An accused who is charged with a capital offense or an offense punishable by reclusion perpetua, shall no longer be entitled to bail as a matter of right even if he appeals the case to the Supreme Court since his conviction clearly imparts that the evidence of his guilt of the offense charged is strong.

The following are the rules concerning the effectivity of the bail of the accused:

r.1. When an accused is charged with an offense which under the law existing at the time of its commission and at the time of the application for bail is punishable by a penalty lower than reclusion perpetua and is out on bail, and after trial is convicted by the trial court of the offense charged or of a lesser offense than that charged in the complaint or information, he may be allowed to remain free on his original bail pending resolution of his appeal, unless the proper court directs otherwise pursuant to Sec. 2 (a) of Rule 114;

r.2. When an accused is charged with a capital offense or an offense which, under the law at the time of its commission and at the time of the application for bail, is punishable by reclusion perpetua and is out on bail, and, after trial, is convicted by the trial court of a lesser offense than that charged in the complaint or information, the

same rule set forth in the preceding paragraph shall be applied; and

r.3. When an accused is charged with a capital offense or an offense which, under the law at the time of its commission and at the time of the application for bail, is punishable by reclusion perpetua and is out on bail, and, after trial, is convicted by the trial court of the offense as charged, his bond shall be cancelled and the accused shall be placed in confinement pending resolution of his appeal.

r.4 As to criminal cases covered under preceding paragraph, which are now pending appeal before the Supreme Court where the accused is still on provisional liberty, the following rules are laid down:

- The Supreme Court shall order the bondsman to surrender the accused within ten (10) days from notice to the court of origin. The bondsman shall inform the said court of the fact of surrender, after which, the cancellation of the bond shall be ordered by the same court;
- The RTC shall order the transmittal of the accused to the National Bureau of Prisons through the Philippine National Police as the accused shall remain under confine-ment pending resolution of his appeal;
- If the accused-appellant is not surrendered within the aforesaid period of ten (10) days, his bond shall be forfeited and an order of arrest shall be issued by the Supreme Court. The appeal taken by the accused shall also be dismissed under Sec. 8 of Rule 124 as he shall be deemed to have jumped bail.

1.3.1.6. Search and seizure

- Search warrant defined

A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a Judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the Court.[245]

- Court where application for search warrant shall be filed[246]

b.1 Any court within whose territorial jurisdiction a crime was committed; and

b.2. For compelling reasons stated in the application, any court within the judicial region where the crime was committed if the place of the commission of the crime is known, or any court within the judicial region where the warrant shall be enforced.

However, if the criminal action has already been filed, the application shall only be made in the court where the criminal action is pending.

- Requisites for issuing search warrant

A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the Judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.[247]

- Examination of complainant; record

The Judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted.[248]

- Issuance and form of search warrant

If the Judge is satisfied of the existence of facts upon which the application is based or that there is probable cause to believe that they exist, he shall issue the warrant, which must be substantially in the form prescribed by the Rules. [249]

- Time of making search

The warrant must direct that it be served in the day time, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night.[250]

- Validity of search warrant

A search warrant shall be valid for ten (10) days from its date. Thereafter, it shall be void. [251]

- Delivery of property and inventory thereof to court; return and proceedings thereon[252]

h.1. The officer must forthwith deliver the property seized to the Judge who issued the warrant, together with a true inventory thereof duly verified under oath.

h.2. Ten (10) days after issuance of the search warrant, the issuing Judge shall ascertain if the return has been made, and if none, shall summon the person to whom the warrant was issued and require him to explain why no return was made. If the return has been made, the Judge shall ascertain whether Sec. 11 of Rule 126 has been complied with and shall require that the property seized be delivered to him. The Judge shall see to it that the preceding paragraph has been complied with.

h.3. The return on the search warrant shall be filed and kept by the custodian of the log book on search warrants who shall enter therein the date of the return, the result, and other actions of the Judge.

A violation of Sec. 12 of Rule 126 shall constitute contempt of court.

- Search warrants log book[253]

In every court, there shall be a log book under the custody of the Clerk of Court wherein shall be entered within twenty-four (24) hours after the issuance of the search warrant, the following:

- i.1. Date and number of the warrant;
- i.2. Name of the issuing judge;
- i.3. Name of the person against whom the warrant is issued;
- i.4. Offense cited in the warrant; and is
- i.5. Name of the officer who applied for the warrant and his witnesses.

In multiple sala courts, each branch shall have a separate and distinct log book.

- Guidelines and procedures

j.1. Guidelines and procedures in the issuance of search warrants[254]

- All applications for search warrants, if filed with the Executive Judge, shall be assigned, by raffle, to a Judge within his administrative area, under whose direction the search warrant shall be issued for the search and seizure of personal property;

- After the application has been raffled and distributed to a branch, the Judge who is assigned to conduct the

examination of the complainant and witnesses should immediately act on the same, considering that time element and possible leakage of information are the primary considerations in the issuance of search warrants and seizure;

- Raffling shall be strictly enforced, except only in cases where an application for search warrant may be filed directly with any Judge in whose jurisdiction the place to be searched is located, after office hours, or during Saturdays, Sundays and legal holidays, in which case the applicant is required to certify under oath the urgency of the issuance thereof after office hours, or during Saturdays, Sundays and legal holidays;

- If, in the implementation of the search warrant, properties are seized thereunder and the corresponding case is filed in court, said case shall be distributed by raffle conformably with Circular No. 7, dated September 23, 1974, of the Supreme Court, and thereupon tried and decided by the Judge to whom it has been assigned, and not necessarily by the Judge who issued the search warrant;

- A warrant may be issued for the search and seizure of personal property – (a) subject of the offense; (b) stolen or embezzled or are the proceeds or fruits of an offense; and (c) used or intended to be used as the means of committing an offense.

j.2. Amended guidelines and procedures on applications for search warrants for illegal possession of firearms and other serious crimes filed in Metro Manila courts and other courts with multiple salas:[255]

- All applications for search warrants relating to violation of the Anti-Subversion Act, crimes against public order as defined in the Rev. Penal Code, as amended, illegal possession of firearms and/or ammunitions and violations of the Dangerous Drugs Act of 1972, as amended, shall no longer be raffled and shall immediately be taken cognizance of and acted upon by the Executive Judge of the Regional Trial Court, Metropolitan Trial Court, and Municipal Trial Court under whose jurisdiction the place to be searched is located.

- In the absence of the Executive Judge, the Vice-Executive Judge shall take cognizance of and personally act on the same. In the absence of the Executive Judge or Vice-Executive Judge, the application may be taken cognizance of and acted upon by any Judge of the Court where the application is filed.

- Applications filed after office hours, during Saturdays, Sundays and holidays, shall likewise be taken cognizance of and acted, by any Judge of the Court having jurisdiction of the place to be searched, but in such cases the applicant shall certify and state the facts under oath, to the satisfaction of the Judge, that its issuance is urgent.

- Any Judge acting on such application shall immediately and without delay personally conduct the examination of the applicant and his witnesses to prevent the possible leakage of information. He shall observe the procedures, safeguards and guidelines for the issuance of search warrants provided for in Administrative Circular No. 13, dated October 1, 1985.

j.3. Officers authorized to act on application for search warrants in special cases:[256]

The Executive Judges and Vice Executive Judges of the Regional Trial Courts of Manila and Quezon City are authorized to act on application for search warrants involving heinous crimes, illegal gambling, dangerous drugs and illegal possession of firearms filed by the Philippine National Police (PNP) and the National Bureau of Investigation (NBI) with the Regional Trial Courts of Manila and Quezon City.

The applications shall be personally endorsed by the Heads of the said agencies, for the search of places to be particularly described therein, and the seizure of property or things as prescribed in the Rules of Court, and to issue the warrants, if justified, which may be served in places outside the territorial jurisdiction of said Courts.

The authorized Judges shall keep a special docket book listing the details of the applications and the result of the searches and seizures made pursuant to the warrants issued.

1.3.1.7. Arraignment and plea

- Arraignment and plea; how made[257]

a.1. The accused must be arraigned before the Court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the Judge or Clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the complaint or information.

a.2. The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but failure to do so shall not affect the validity of the proceedings.

a.3. When the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.

a.4. When the accused pleads guilty but presents exculpatory evidence, his plea shall be deemed withdrawn and a plea of not guilty shall be entered for him.

a.5. When the accused is under preventive detention, his case shall be raffled and its records transmitted to the Judge to whom the case was raffled within three (3) days from filing of the information or complaint. The accused shall be arraigned within ten (10) days from the date of the raffle. The pre-trial conference of his case shall be held within ten (10) days after arraignment.

a.6. The private offended party shall be required to appear at the arraignment for purposes of plea bargaining, determination of civil liability and other matters requiring his presence. In case of failure of the offended party to appear despite due notice the Court may allow the accused to enter a plea of guilty to a lesser offense which is necessarily included in the offense charged with the conformity of the trial prosecutor alone.

a.7. Unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the Court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period.

- Plea of guilty to a lesser offense

At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the Trial Court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.[258]

- Plea of guilty to a capital offense; reception of evidence

When the accused pleads guilty to a capital offense, the Court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability. The accused may present evidence in his behalf.[259]

- Plea of guilty to non-capital offense; reception of evidence

When the accused pleads guilty to a non-capital offense, the Court may receive evidence from the parties to determine the penalty to be imposed.[260]

- Withdrawal of improvident plea of guilty

At any time before the judgment of conviction becomes final, the Court may permit an improvident plea of guilty

to be withdrawn and be substituted by a plea of not guilty.[261]

- Duty of Court to inform accused of his right to counsel

Before arraignment, the Court shall inform the accused of his right to counsel and ask him if he desires to have one. Unless the accused is allowed to defend himself in person or has employed counsel of his choice, the Court must assign a counsel de oficio to defend him.[262]

- Appointment of counsel de oficio

The Court, considering the gravity of the offense and the difficulty of the questions that may arise, shall appoint as counsel de oficio such members of the bar in good standing who, by reason of their experience and ability, can competently defend the accused. But in localities where such members of the bar are not available, the Court may appoint any person, resident of the province and of good repute for probity and ability, to defend the accused.[263]

- Time for counsel de oficio to prepare for arraignment

Whenever a counsel de oficio is appointed by the Court to defend the accused at the arraignment, he shall be given a reasonable time to consult with the accused as to his plea before proceeding with the arraignment.[264]

- Compensation of counsel de oficio

The compensation of attorneys de oficio shall be in accordance with the rates fixed in Sec. 32 of Rule 138 of the Rules of Court.

- Claims for payment of counsel de oficio[265]

The following requirements prescribed in connection with the filing of claims for payment of counsel de oficio fees pursuant to Sec. 32 of Rule 138 of the Rules of Court must be strictly complied with:

j.1. The claim in duplicate shall be filed with the Supreme Court through the Clerk of Court of the trial court.

j.2. The claims shall be indorsed by the Clerk of Court to the Supreme Court not earlier than thirty (30) days from the date of the decision or order of the Court allowing payment of the fees, with two (2) certified copies (duly authenticated with the dry seal of the Court) of each of the following:

- Certification of appointment or order of designation of counsel de oficio;

- Information in the case where the claimant served as counsel de oficio;

- The decision rendered in the case, and unless already filed therein, the order of the Court fixing the amount of the fees of the counsel de oficio;

- Sworn certificate by the claimant stating his appearance, as well as the nature and content of his services duly certified by the Clerk of Court, and the number, date and place of issue of the official receipt for payment of claimant's professional license fees.

All Clerks of Court are directed to submit to the Supreme Court within the first five (5) days of every month a report containing a list of attorneys de oficio appointed by the Court during the preceding month, indicating the date of appointment and the docket number of the case and the nature thereof.

Services rendered as counsel de oficio in provisionally dismissed cases are not compensable.

Counsel de oficio must be informed of the foregoing requirements.

1.3.1.8. Pre-trial

- Pre-trial; mandatory in criminal cases[266]

In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the Court shall, after arraignment and within thirty (30) days from the date the Court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:

- a.1. plea bargaining;
- a.2. stipulation of facts;
- a.3. marking for identification of evidence of the parties;
- a.4. waiver of objections to admissibility of evidence;
- a.5. modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
- a.6. such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.

The Presiding Judge may refer the case to the Clerk of Court of a single sala or the Branch Clerk for a preliminary conference to assist the parties in plea bargaining, to mark the documents or exhibits to be presented with the list and copies or photographs thereof to be attached to the records after comparison, and to consider such other matters as will promote the expeditious trial of the case.

- Pre-trial agreement

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Sec. 1 of Rule 118 shall be approved by the Court.[267]

- Non-appearance at pre-trial conference

If the counsel for the accused or the prosecutor does not appear at the pre-trial conference and does not offer an acceptable excuse for his lack of cooperation, the Court may impose proper sanctions or penalties.[268]

- Pre-trial order

After the pre-trial conference, the Court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the Court to prevent manifest injustice.[269]

1.3.2. During Trial

1.3.2.1. Time to prepare for trial

After a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. The trial shall commence within thirty (30) days from receipt of the pre-trial order.[270]

1.3.2.2. Continuous trial until terminated; postponement[271]

Trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause.

The Court shall, after consultation with the prosecutor and defense counsel, set the case for continuous trial on a weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Supreme Court.

The time limitations provided by Secs. 1 and 2 of Rule 119 shall not apply where special laws or circulars of the Supreme Court provide for a shorter period of trial.

1.3.2.3. Exclusions[272]

The following periods of delay shall be excluded in computing the time within which trial must commence:

- Any period of delay resulting from other proceedings concerning the accused, including but not limited to the following:

- a.1. Delay resulting from an examination of the physical and mental condition of the accused;
- a.2. Delay resulting from proceedings with respect to other criminal charges against the accused;
- a.3. Delay resulting from extraordinary remedies against interlocutory orders;
- a.4. Delay resulting from pre-trial proceedings; provided, that the delay does not exceed thirty (30) days;
- a.5. Delay resulting from orders of inhibition, or proceedings relating to change of venue of cases or transfer from other courts;
- a.6. Delay resulting from a finding of the existence of a prejudicial question; and
- a.7. Delay reasonably attributable to any period, not to exceed thirty (30) days, during which any proceeding concerning the accused is actually under advisement.

- Any period of delay resulting from the absence or unavailability of an essential witness.

For purposes of this subparagraph, an essential witness shall be considered absent when his whereabouts are unknown or his whereabouts cannot be determined by due diligence. He shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained by due diligence.

- Any period of delay resulting from the mental incompetence or physical inability of the accused to stand trial.

- If the information is dismissed upon motion of the prosecution and thereafter a charge is filed against the accused for the same offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

- A reasonable period of delay when the accused is joined for trial with a co-accused over whom the Court has not acquired jurisdiction, or as to whom the time for trial has not run and no motion for separate trial has been granted.

- Any period of delay resulting from a continuance granted by any court motu proprio, or on motion of either the accused or his counsel, or the prosecution, if the Court granted the continuance on the basis of its findings set forth in the order that the ends of justice served by taking such action outweigh the best interest of the public and the accused in a speedy trial.

1.3.2.4. Factors for granting continuance[273]

The following factors, among others, shall be considered by a court in determining whether to grant a continuance

under Sec. 3(f) of Rule 119.

- Whether or not the failure to grant a continuance in the proceeding would likely make a continuation of such proceeding impossible or result in a miscarriage of justice; and
- Whether or not the case taken as a whole is so novel, unusual and complex, due to the number of accused or the nature of the prosecution, or that it is unreasonable to expect adequate preparation within the periods of time established therein.

In addition, no continuance under Sec. 3(f) of Rule 119 shall be granted because of congestion of the court's calendar or lack of diligent preparation or failure to obtain available witnesses on the part of the prosecutor.

1.3.2.5. Time limit following an order for new trial

If the accused is to be tried again pursuant to an order for a new trial, the trial shall commence within thirty (30) days from notice of the order, provided that if the period becomes impractical due to unavailability of witnesses and other factors, the Court may extend it but not to exceed one hundred eighty (180) days from notice of said order for a new trial.[274]

1.3.2.6. Extended time limit

Notwithstanding the provision of Sec. 1(g) of Rule 116 and the preceding Sec. 1, for the first twelve-calendar-month period following its effectivity on September 15, 1998, the time limit with respect to the period from arraignment to trial imposed by said provision shall be one hundred eighty (180) days. For the second twelve-month period, the time limit shall be one hundred twenty (120) days, and for the third twelve-month period, the time limit shall be eighty (80) days.[275]

1.3.2.7. Sanctions[276]

In any case in which private counsel for the accused, the public attorney, or the prosecutor:

- Knowingly allows the case to be set for trial without disclosing that a necessary witness would be unavailable for trial;
- Files a motion solely for delay which he knows is totally frivolous and without merit;
- Makes a statement for the purpose of obtaining continuance which he knows to be false and which is material to the granting of continuance; or
- Willfully fails to proceed to trial without justification consistent with the provisions of the Rules on Criminal Procedure, the Court may punish such counsel, attorney, or prosecutor, as follows:

d.1. By imposing on a counsel privately retained in connection with the defense of an accused, a fine not exceeding twenty thousand pesos (P20,000.00);

d.2. By imposing on any appointed counsel de oficio, public attorney, or prosecutor a fine not exceeding five thousand pesos (P5,000.00); and

d.3. By denying any defense counselor prosecutor the right to practice before the Court trying the case for a period not exceeding thirty (30) days. The punishment provided for shall be without prejudice to any appropriate criminal action or other sanction authorized under the Rules.

1.3.2.8. Remedy where accused is not brought to trial within the time limit[277]

If the accused is not brought to trial within the time limit required by Sec. 1 (g) of Rule 116 and Sec. 1, as

extended by Sec. 6 of Rule 119, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving the motion but the prosecution shall have the burden of going forward with the evidence to establish the exclusion of time under Sec. 3 of Rule 119. The dismissal shall be subject to the rules on double jeopardy.

Failure of the accused to move for dismissal prior to trial shall constitute a waiver of the right to dismiss under Sec. 9 of Rule 119.

1.3.2.9. Order of trial[278]

The trial shall proceed in the following order:

- The prosecution shall present evidence to prove the charge and, in the proper case, the civil liability.
- The accused may present evidence to prove his defense and damages, if any, arising from the issuance of a provisional remedy in the case.
- The prosecution and the defense may, in that order, present rebuttal and sur-rebuttal evidence unless the Court, in furtherance of justice, permits them to present additional evidence bearing upon the main issue.
- Upon admission of the evidence of the parties, the case shall be deemed submitted for decision unless the Court directs them to argue orally or to submit written memoranda.
- When the accused admits the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified.

1.3.2.10. Application for examination of witness for accused before trial

When the accused has been held to answer for an offense, he may, upon motion with notice to the other parties, have witnesses conditionally examined in his behalf. The motion shall state: (a) the name and residence of the witness; (b) the substance of his testimony; and (c) that the witness is sick or infirm as to afford reasonable ground for believing that he will not be able to attend the trial, or resides more than one hundred (100) kilometers from the place of trial and has no means to attend the same, or that other similar circumstances exist that would make him unavailable or prevent him from attending the trial. The motion shall be supported by an affidavit of the accused and such other evidence as the Court may require.[279]

1.3.2.11. Examination of defense witness; how made

If the Court is satisfied that the examination of a witness for the accused is necessary, an order shall be made directing that the witness be examined at a specific date, time and place and that a copy of the order be served on the prosecutor at least three (3) days before the scheduled examination. The examination shall be taken before a Judge, or, if not practicable, a member of the Bar in good standing so designated by the Judge in the order, or if the order be made by Court of superior jurisdiction, before an inferior Court to be designated therein. The examination shall proceed notwithstanding the absence of the prosecutor provided he was duly notified of the hearing. A written record of the testimony shall be taken.[280]

1.3.2.12. Bail to secure appearance of material witness

When the Court is satisfied, upon proof or oath, that a material witness will not testify when required, it may, upon motion of either party, order the witness to post bail in such sum as may be deemed proper. Upon refusal to post bail, the Court shall commit him to prison until he complies or is legally discharged after his testimony has been taken.[281]

1.3.2.13. Examination of witness for the prosecution

When it satisfactorily appears that a witness for the prosecution is too sick or infirm to appear at the trial as directed by the Court, or has to leave the Philippines with no definite date of returning, he may forthwith be conditionally examined before the Court where the case is pending. Such examination, in the presence of the accused, or in his absence after reasonable notice to attend the examination has been served on him, shall be conducted in the same manner as an examination at the trial. Failure or refusal of the accused to attend the examination after notice shall be considered a waiver. The statement taken may be admitted in behalf of or against the accused.[282]

1.3.2.14. Trial of several accused

When two (2) or more accused are jointly charged with an offense, they shall be tried jointly unless the Court, in its discretion and upon motion of the prosecutor or any accused, orders separate trial for one or more accused.[283]

1.3.2.15. Discharge of accused to be state witness[284]

When two (2) or more persons are jointly charged with the commission of any offense, upon motion of the prosecution before resting its case, the Court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state when, after requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in support of the discharge, the Court is satisfied that:

- There is absolute necessity for the testimony of the accused whose discharge is requested;
- There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;
- The testimony of said accused can be substantially corroborated in its material points;
- Said accused does not appear to be the most guilty; and
- Said accused has not, at any time, been convicted of any offense involving moral turpitude.

Evidence adduced in support of the discharge shall automatically form part of the trial. If the Court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence.

1.3.2.16. Discharge of accused operates as acquittal

The order indicated in Sec. 17 of Rule 119 shall amount to an acquittal of the discharged accused and shall be a bar to future prosecution for the same offense, unless the accused fails or refuses to testify against his co-accused in accordance with his sworn statement constituting the basis for his discharge.[285]

1.3.2.17. Who must prosecute criminal actions

All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.[286]

1.3.2.18. Exclusion of the public

The Judge may, *motu proprio*, exclude the public from the courtroom if the evidence to be produced during the trial is offensive to the decency or public morals. He may also, on motion of the accused, exclude the public from the trial except court personnel and the counsel of the parties.[287]

1.3.2.19. Consolidation of trials of related offenses

Charges for offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the discretion of the Court.[288]

1.3.2.20. Demurrer to evidence[289]

After the prosecution rests its case, the Court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the Court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

1.3.2.21. Reopening

At any time before finality of the judgment of conviction, the Judge may, *motu proprio* or upon motion, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it.[290]

1.3.2.22. Court processes to witnesses

- Medico-legal officers/doctors

In the interest of public service, medico-legal officers subpoenaed to testify in court, but who for justifiable reasons are unable to appear at the particular hour indicated in the subpoena, may ask for a resetting and shall be informed of the revised hour and/or date of trial, as the case may be.

Subpoenas issued for the purpose should include the name of the victim, or offended party, and the date of referral of treatment.

- Prisoners

Applications for transfer of prisoners from one place to another for purposes of testifying at the hearing or the trial of an action –

b.1. In death or life imprisonment cases[291]

No person sentenced to death or life imprisonment or detained upon legal process for the commission of any

offense punishable by death or life imprisonment, who is confined in the New Bilibid Prisons, Muntinlupa City, shall be allowed to be brought outside the said penal institution for appearance or attendance, as witness or as accused, in preliminary investigations, arraignments or hearings of other criminal cases in any court, except as herein provided.

In Metro Manila and the provinces of Rizal, Bulacan, Cavite and Laguna, Judges who shall require the appearance or attendance, as witness or as accused, of any person confined in the New Bilibid Prisons in any of the aforestated proceedings before their respective Courts, shall conduct such proceedings within the premises of the said penal institution.

The Supreme Court shall deal with all other situations on a case to case basis, upon proper application of the Judge concerned.

b.2. Guidelines in the issuance of subpoena requiring a detention prisoner detained in one place to appear in another place for the purpose of taking his testimony.[291-a]

To minimize or prevent the unnecessary transfer of detained prisoners to another place for the taking of their testimony, and subject to the provisions of Sec. 2, Rule 21 of the Rules on Civil Procedure and Administrative Circular No.6 dated December 5, 1977, the following guidelines shall be strictly observed:

- Any application for the issuance of subpoena ad testificandum shall be studied carefully and judiciously by the judge receiving the same to determine whether the application is for a valid purpose.
- If, in his sound judgment, the personal appearance or attendance at the hearing or trial of the case before him by a prisoner detained in another place can be dispensed with, considering all the circumstances of the case in light the "absolute necessity" rule and the availability under the Rules of Court of more practicable alternative modes of taking the testimony of the prisoner other than personal appearance, the application shall be denied.
- On the other hand, if the personal appearance or attendance of the prisoner at the hearing or trial is indispensable or that his complicity in the commission of the offense subject of the hearing or trial has been fully established, the said application shall be granted.
- In case a subpoena is issued, the court before which the case of the detained prisoner is pending shall forthwith be duly informed thereof by the judge issuing the same as a matter of judicial courtesy and an orderly procedure in the context of trial scheduling.
- The full testimony of the prisoner shall be taken at once, and immediately thereafter, the prisoner shall be returned to his original place of confinement.

- Police witnesses[292]

c.1. All Clerks of Court are required that:

- In the preparation of the notice of hearing/subpoena, copies of the same shall not only be sent to the office and residence addresses of the police witness concerned but also to his/her commanding officer's or immediate superior officer's address;
- In case several police witnesses are summoned to attend a scheduled hearing, all of them shall be furnished individually of copies of the notice of hearing/subpoena;
- In all cases, notice of hearing/subpoena shall be sent at least thirty (30) days prior to the scheduled hearing to the police witness and his/her commanding officer or immediate superior officer;

c.2. All judges are reminded and advised:

- To give preference in time to the testimony of the police witness than other witness;
- To avoid unnecessary postponements of hearing, especially when the police witnesses present come from far-flung police unit or station;
- Not to be lenient or liberal in accepting the explanation of police witnesses who fail to attend the scheduled hearings despite due notice to them;
- To impose the maximum penalty to police witnesses and their superior when warranted, if the explanation of the offending witness should be found unsatisfactory; and
- To inform the head of the law enforcement agency to which the offending witness belongs of the sanction imposed against the said witness for further administrative action.
- Records on firearms and explosives

All summonses and processes seeking to establish official records or information regarding firearm and explosives shall be addressed to "The Chief, Records Branch, Firearms and Explosives Division"[293]

1.3.2.23. Guidelines in the issuance of notices and subpoenas to witnesses[294]

In order to avoid inconvenience and unnecessary expenditure of time on the part of government employees, military and police officers, physicians, both in government and private practice as well as other technical experts, the following guidelines are hereby established in the issuance of notices and subpoenas to witnesses:

- Before the trial dates are fixed for the attendance of the above-named witnesses, the Presiding Judge shall direct the public prosecutor and the Branch Clerk of Court to ascertain the dates of availability of said witnesses;
- When the examination of these witnesses is terminated, the Branch Clerk of Court shall indicate on a space in the information or some other appropriate page of the records that the testimony was taken;
- The Presiding Judge shall ascertain that no subpoena is issued to a witness who has already completed his testimony, unless he is recalled for rebuttal or a reopening of the proceedings;
- During the pre-trial, the Presiding Judge shall endeavor to secure admissions from the parties on the admissibility of documents to eliminate the need for the appearance of witnesses who executed said documents;
- Whenever practical, the examination of a witness should be terminated in one hearing to obviate the need for his/her return; and
- With respect to the unjustified non-appearance of a government witness, in addition to the exercise of contempt powers, the Presiding Judge shall furnish the head of office of the government employee with the orders issued in connection with his non-appearance. Thus, in the case of police officers, the National Police Commission should be given notice; and in the case of military officers, the Chief of Staff or the Secretary of National Defense.

1.3.2.24. Speedy disposition of criminal cases with detention prisoners and with witness protection, security and benefit witnesses [295]

Judges are directed to faithfully observe Sec. 9 of Rep. Act No. 6981, otherwise known as Witness Protection, Security and Benefit Act (WPSB), which provides:

"Sec. 9. Speedy Hearing or Trial. – In any case where a witness admitted into the Program shall testify, the judicial or quasi-judicial body or investigating authority shall assure a speedy hearing or trial and shall

endeavor to finish said proceeding within three (3) months from the filing of the case."

On this account, inventory of court dockets is hereby directed to determine the number of pending cases with detention prisoners and wherein WPSB witnesses are presently testifying and to give said cases preferential attention.

1.3.2.25. Speedy disposition of cases involving children[296]

All Trial Judges are enjoined to act with dispatch on all cases involving children, including but not limited to child labor case under Rep. Act No. 7610, cases of child abuses and pedophilia.

It is directed that arraignment should be scheduled within a week after the accused is placed in the Court's custody or upon filing of the bail bond and pre-trial/trial shall commence within three (3) days from arraignment.

Violations of Rep. Act No. 7610 should be heard in the chambers of the Family Courts or RTC duly designated as such.[297]

1.3.2.26. Expeditious disposition of cases involving tourists[298]

General Order No. 39 dated September 19, 1973 amending General Order No. 12 dated September 30, 1972 gives military tribunals concurrent jurisdiction over crimes committed against tourists and transients.

The civil courts shall have concurrent jurisdiction with the military tribunals over the said crimes, provided that civil courts shall dispose of such cases within twenty-four (24) hours after the filing thereof by the arresting officers. The Court or tribunal that first assumes jurisdiction shall exercise jurisdiction to the exclusion of all others.

1.3.3. After Trial

1.3.3.1. When case is submitted for decision

In criminal cases, the Judge will do well to announce in open court at the termination of the trial the date of the promulgation of the decision, which should be set within 90 days from the submission of the case for decision.[299]

1.3.3.2. Judgment

- Judgment; definition and form

Judgment is the adjudication by the Court that the accused is guilty or not guilty of the offense charged and the imposition on him of the proper penalty and civil liability, if any. It must be written in the official language, personally and directly prepared by the Judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.[300]

- Contents of the judgment

If the judgment is of conviction, it shall state (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to

prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.[301]

- Judgment for two (2) or more offenses

When two (2) or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the Court may convict him of as many offenses as are charged and proved, and impose on him the penalty for each offense, setting out separately the findings of fact and law in each offense.[302]

- Judgment in case of variance between the allegation and proof

When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.[303]

- When an offense includes or is included in another

An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.[304]

- Promulgation of judgment[305]

f.1. The judgment is promulgated by reading it in the presence of the accused and any Judge of the Court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counselor representative. When the Judge is absent or outside the province or city, the judgment may be promulgated by the Clerk of Court.

f.2. If the accused is confined or detained in another province or city, the judgment may be promulgated by the Executive Judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the Court which rendered the judgment. The Court promulgating the judgment shall have authority to accept the notice of appeal and to approve the bail bond pending appeal; provided, that if the decision of the Trial Court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed and resolved by the appellate Court.

f.3. The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried in absentia because he jumped bail or escaped from prison, the notice to him shall be served at his last known address.

f.4. In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.

f.5. If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in the Rules against the judgment and the Court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice.

- Modification of judgment

A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or when the accused has waived in writing his right to appeal, or has applied for probation.[306]

- Entry of judgment

After a judgment has become final it shall be entered in accordance with Rule 36 of the Rules of Civil Procedure (1997).[307]

1.3.3.3. Probation

Subject to the provisions of Pres. Decree No. 968, as amended, the trial court may, after it shall have convicted and sentenced a defendant, and upon application by said defendant within the period for perfecting an appeal, suspend the execution of the sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best. No application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment of conviction.

Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. An application for probation shall be filed with the trial court. The filing of the application shall be deemed a waiver of the right to appeal.

An order granting or denying probation shall not be appealable.[308]

It shall be the duty of the Clerk of Court to remind the Presiding Judge of the submission of the Post-Sentence Investigation Report considering that the Court should resolve the petition for probation not later than fifteen (15) days after receipt of said report.[309]

1.3.3.4. Mittimus or order of commitment

- Concept of mittimus

The mittimus after conviction in criminal cases is a final process for carrying the judgment of the Court into effect. It is predicated upon the judgment of conviction and must be in substantial accord with it. The prisoner is detained, not by virtue of the warrant of commitment, but on account of the judgment and sentence of the Court.[310]

In other words, mittimus is the order of commitment of the accused based on a final judgment of conviction.

- Instructions for issuance of mittimus

To effect a more efficient handling of prisoners, the following instructions are hereby issued:

b.1. With reference to the commitment of prisoners to the New Bilibid Prison, the following should be included in the commitment papers: (1) two certified copies of the information and of the decision of the Court; and (2) the fact that the case has been appealed or not. In case the appeal is filed after the commitment papers have already been forwarded, the Director of Corrections should be informed of the fact immediately.[311]

b.2. Hereafter, all mittimus issued by Regional Trial Courts and the Metropolitan/ Municipal/Municipal Circuit Trial Courts should always be made to bear the fingerprints of both hands of the corresponding prisoner. In securing the fingerprints of a convict or accused on the corresponding mittimus, great care must be exercised in order to avoid substitution.

b.3. All mittimus should always bear, if possible, the signature of the Judge. However, if for certain reasons the signature of the Judge can not be secured, the mittimus should be made to bear the seal of the Court and the signature of the Clerk of Court thereof. Mittimus issued by the Metropolitan/Municipal! Municipal Circuit Trial Courts should always bear the signature of the Judge thereof.

b.4. If the convict is sentenced to be confined in an institution other than the New Bilibid Prisons, that fact should be stated on the mittimus and the word "To Director of Corrections" appearing thereon should be stricken off.

b.5. Great care should also be exercised in filling up the mittimus, especially with respect to the (1) crime charged, (2) crime for which convicted, (3) length of sentence and (4) length of subsidiary imprisonment, should there be any.

b.6. Ordinarily, the mittimus shall be prepared only after the expiration of the reglementary period to appeal. If the case is on appeal, that fact should be so stated in the mittimus, in order that the convict may be placed in the proper department to which he belongs by reason of his class.

b.7. All Commitment Orders for the commitment of an accused to prison should state that the prisoner concerned did not appeal the judgment of conviction, or if an appeal had been filed, that the same had been withdrawn/dismissed/ decided with finality.[312]

b.8. In all cases where the records are remanded from the Supreme Court or the Court of Appeals to the lower Court for execution of judgment, the Judge of the lower court concerned shall immediately issue the corresponding mittimus or commitment order of the prisoner immediately after the records are received by the court of origin.

- The mittimus shall be under the signature of the Judge and shall bear the seal of the Court attested by the Clerk of Court thereof;

- If the accused is sentenced to imprisonment of more than three (3) years, he is classified as national prisoner and shall be committed to the Director of Corrections in Muntinlupa, Metro Manila;

- If the accused is sentenced to imprisonment of more than one (1) year but not more than three (3) years, he is classified as city/provincial prisoner and shall be committed to the city or provincial jail warden;

- If the accused is sentenced to imprisonment of not more than one (1) year, he is classified as municipal prisoner and shall be committed to the municipal jail warden;

- In all appealed cases where the records are returned to the Court of origin for execution of judgment, the Clerk of Court of the lower court concerned shall furnish the appellate courts with copies of the mittimus/commitment order within ten (10) days from issuance;

- The mittimus shall also be issued where a detained prisoner is convicted, but remain in detention even after appeal is perfected for non-posting of bail, or the bail is cancelled, or because the accused has been sentenced to suffer reclusion perpetua.

- Order of release of prisoners

Clerks of Court of Regional Trial Courts should never send a telegram to the Director of Corrections and Provincial Wardens, ordering the release of prisoners. Prisoners to be released by reason of acquittal or payment of fines, will be released only upon receipt by the Director of Corrections of a written order under the seal of the Court duly signed by the Judge or the Clerk of Court thereof. The Court's order of release should bear (a) the full name of the prisoner; (b) the crime committed; (c) the number of the case; and (d) such other details as will enable

the head of any penal institution to properly identify the prisoner to be released.

- Transfer of national prisoners[313]

d.1. In the Department of Justice Circular No. 4 of January 15, 1991, the Secretary of Justice directed Provincial and City Prosecutors to file with the proper court, immediately after the promulgation of the judgment convicting a national prisoner, a manifestation requesting said court to commit the prisoner directly to the national penal institutions. These are:

- National prisoners in Regions X and XI – to be committed to the Davao Prison and Penal Farm at Panabo, Davao del Norte;

- National prisoners in Regions IX and XII – to be committed to the San Ramon Prison and Penal Farm at Zamboanga del Sur;

- National prisoners in Region VIII – to be committed to the Leyte Regional Prison at Abuyog, Leyte;

- National prisoners in Palawan and Puerto Princesa City – to be committed to the Iwahig Prison and Penal Farm at Puerto Princesa, Palawan; and

- National prisoners in Mindoro Oriental and Mindoro Occidental – to be committed to the Sablayan Prison and Penal Farm at Sablayan, Mindoro Occidental.

The purposes of Circular No. 4-92-A which are to decongest provincial, city and municipal jails and to effect better control and supervision over national prisoners are still served if these prisoners are transferred to the mentioned national penal institutions. Accordingly, the Judges concerned may, in the exercise of sound discretion, favorably act on the manifestations of prosecutors for direct commitment of national prisoners to these penal institutions.

It is understood that: (1) all female national prisoners shall continue to be committed to the Correctional Institution for Women at Mandaluyong, Metro Manila; and (2) all other national male prisoners not included in the foregoing enumeration shall be committed to the New Bilibid Prison at Muntinlupa City.

d.2. Instruction to prevent release of prisoners upon forged papers

All Judges are hereby ordered not to sign release orders prepared on ordinary pieces of paper. These orders, like other judicial processes, should be prepared on a standard form, the blanks of which should be kept under the custody of the Clerk of Court and should always be sealed with the seal of the Court.

No release orders should be given to private individuals for hand-carrying but should be carried by an employee of the Court or by any public officer who can attest to the authenticity thereof.[314]

1.3.3.5. New trial or reconsideration

At any time before a judgment of conviction becomes final, the Court may, on motion of the accused or at its own instance but with the consent of the accused, grant a new trial or reconsideration.[315]

a. Grounds for a new trial [316]

The Court shall grant a new trial on any of the following grounds:

a.1. That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;

a.2. That new and material evidence has been discovered which the accused could not, with reasonable diligence, have discovered and produced at the trial and which, if introduced and admitted, would probably change the judgment.

- Grounds for reconsideration

The Court shall grant reconsideration on the ground of errors of law or fact in the judgment, which requires no further proceedings.[317]

- Hearing on motion

Where a motion for new trial calls for resolution of any question of fact, the Court may hear evidence thereon by affidavits or otherwise.[318]

- Effects of granting a new trial or reconsideration[319]

The effects of granting a new trial or reconsideration are the following:

d.1. When a new trial is granted on the ground of errors of law or irregularities committed during the trial, all the proceedings and evidence affected thereby shall be set aside and taken anew. The Court may, in the interest of justice, allow the introduction of additional evidence.

d.2. When a new trial is granted on the ground of newly-discovered evidence, the evidence already adduced shall stand and the newly-discovered and such other evidence as the Court may, in the interest of justice, allow to be introduced shall be taken and considered together with the evidence already in the record.

d.3. In all cases, when the Court grants new trial or reconsideration, the original judgment shall be set aside or vacated and a new judgment rendered accordingly.

1.3.3.6. Appeal

- Who may appeal

Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy.[320]

- Where to appeal[321]

The appeal may be taken as follows:

b.1. To the Regional Trial Court, in cases decided by the Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court;

b.2. To the Court of Appeals or to the Supreme Court in the proper cases provided by law, in cases decided by the Regional Trial Courts; and

b.3. To the Supreme Court, in cases decided by the Court of Appeals.

- How appeal taken[322]

c.1. The appeal to the Regional Trial Court, or to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction, shall be taken by filing a notice of appeal with the Court which rendered the judgment or final order appealed from and by serving a copy thereof upon the adverse party.

c.2. The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.

c.3. The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by filing a notice of appeal in accordance with paragraph (a) of Sec. 3 of Rule 122.

c.4. No notice of appeal is necessary in cases where the death penalty is imposed by the Regional Trial Court. The same shall be automatically reviewed by the Supreme Court as provided in Sec. 10 of Rule 122.

c.5. Except as provided in the last paragraph of Sec. 13 of Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45.

- When appeal to be taken

An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run.[323]

- Transcribing and filing notes of stenographic reporter upon appeal

When notice of appeal is filed by the accused, the Trial Court shall direct the stenographic reporter to transcribe his notes of the proceedings. When filed by the People of the Philippines, the Trial Court shall direct the stenographic reporter to transcribe such portion of his notes of the proceedings as the Court; upon motion, shall specify in writing. The stenographic reporter shall certify to the correctness of the notes and the transcript thereof, which shall consist of the original and four (4) copies, and shall file said original and four (4) copies with the Clerk without unnecessary delay.

If death penalty is imposed, the stenographic reporter shall, within thirty (30) days from promulgation of the sentence, file with the Clerk the original and four (4) copies of the duly certified transcript of his notes of the proceedings. No extension of time for filing of said transcript of stenographic notes shall be granted except by the Supreme Court and only upon justifiable grounds.[324]

- Transmission of papers to appellate court upon appeal

Within five (5) days from the filing of the notice of appeal, the Clerk of the Court with whom the notice of appeal was filed must transmit to the Clerk of Court of the appellate court the complete record of the case, together with said notice. The original and three (3) copies of the transcript of stenographic notes, together with the records, shall also be transmitted to the Clerk of the appellate court without undue delay. The other copy of the transcript shall remain in the lower court.[325]

- Appeal to the Regional Trial Courts[326]

g.1. Within five (5) days from perfection of the appeal, the Clerk of Court shall transmit the original record to the appropriate Regional Trial Court.

g.2. Upon receipt of the complete record of the case, transcripts and exhibits, the Clerk of Court of the Regional Trial Court shall notify the parties of such fact.

g.3. Within fifteen (15) days from receipt of said notice, the parties may submit memoranda or briefs, or may be required by the Regional Trial Court to do so. After the submission of such memoranda or briefs, or upon the expiration of the period to file the same, the Regional Trial Court shall decide the case on the basis of the entire

record of the case and of such memoranda or briefs as may have been filed.

- Transmission of records in case of death penalty

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15th) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.[327]

- Effect of appeal by any of several accused[328]

i.1. An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

i.2. The appeal of the offended party from the civil aspect shall not affect the criminal aspect of the judgment or order appealed from.

i.3. Upon perfection of the appeal, the execution of the judgment or final order appealed from shall be stayed as to the appealing party.

- Withdrawal of appeal

Notwithstanding perfection of the appeal, the Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court, as the case may be, may allow the appellant to withdraw his appeal before the record has been forwarded by the Clerk of Court to the proper appellate Court as provided in Sec. 8 of Rule 122, in which case the judgment shall become final. The Regional Trial Court may also, in its discretion, allow the appellant from the judgment of a Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court to withdraw his appeal, provided a motion to that effect is filed before rendition of the judgment in the case on appeal, in which case the judgment of the court of origin shall become final and the case shall be remanded to the latter court for execution of the judgment.[329]

- Appointment of counsel de oficio for accused on appeal

It shall be the duty of the Clerk of Court of the trial court, upon filing of a notice of appeal, to ascertain from the appellant, if confined in prison, whether he desires the Regional Trial Court, Court of Appeals or the Supreme Court to appoint a counsel de oficio to defend him and to transmit with the record on a form to be prepared by the Clerk of Court of the appellate court, a certificate of compliance with this duty and of the response of the appellant to his inquiry.[330]

1.3.3.7. Guidelines in the archiving of criminal cases[331]

- A criminal case may be archived only if after the issuance of the warrant of arrest, the accused remains at large for six (6) months from the delivery of the warrant to the proper peace officer. An order archiving the case shall require the peace officer to explain why the accused was not apprehended. The Court shall issue an alias warrant if the original warrant of arrest is returned by the peace officer together with the report.

- The Court, motu proprio or upon motion of any party, may likewise, archive a criminal case when proceedings therein are ordered suspended for an indefinite period because:

b.1. the accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently, or to undergo trial, and he has to be committed to a mental hospital;

b.2. a valid prejudicial question in a civil action is invoked during the pendency of the criminal case unless the civil and the criminal cases are consolidated;

b.3. an interlocutory order or incident in the criminal case is elevated to, and is pending resolution/decision for an indefinite period before a higher court which has issued a temporary restraining order or writ of preliminary injunction; and

b.4. when the accused has jumped bail before arraignment and cannot be arrested by his bondsmen.

- General provisions

The general provisions under Sec. E 1.2.3.6. in archiving civil cases shall, likewise, apply to archiving of criminal cases.

1.4. Juveniles in Conflict with the Law

A juvenile in conflict with the law is a person who at the time of the commission of the offense is below eighteen (18) years of age but not less than nine (9) years of age.[332]

1.4.1. Before Trial

1.4.1.1. Procedure in taking a juvenile into custody[333]

Any person taking into custody a juvenile in conflict with the law shall:

- Identify himself and present proper identification to the juvenile.
- Inform the juvenile of the reason for such custody and advise him of his constitutional rights in a language or dialect understood by him.
- Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the juvenile.
- Avoid displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed.
- Refrain from subjecting the juvenile to greater restraint than is necessary for his apprehension.
- Avoid violence or unnecessary force.
- Notify the parents of the juvenile or his nearest relative or guardian, if any, and the local social welfare officer as soon as the apprehension is made.
- Take the juvenile immediately to an available government medical or health officer for a physical and mental examination. The examination results shall be kept confidential unless otherwise ordered by the Family Court. Whenever treatment for any physical or mental defect is necessary, steps shall be immediately taken by the said officer to provide the juvenile with the necessary and proper treatment.
- Hold the juvenile in secure quarters separate from that of the opposite sex and adult offenders.

1.4.1.2. Taking custody of a juvenile without a warrant

A peace officer or a private person taking into custody a juvenile in conflict with the law without a warrant shall, likewise, follow the provisions of Sees. 5, 8 and 9 of Rule 113 of the Rev. Rules of Criminal Procedure and shall forthwith deliver him to the nearest police station. The juvenile shall be proceeded against in accordance with Sec.

7 of Rule 112.[334]

1.4.1.3. Intake report by the social welfare officer

Upon the taking into custody of a juvenile in conflict with the law, the social welfare officer assigned to him by the DSWD shall immediately undertake a preliminary background investigation of the juvenile submit, prior to arraignment of the juvenile, a report on his findings to the Family Court in which the case may be filed.[335]

1.4.1.4. Filing of criminal action[336]

A criminal action may be instituted against a juvenile in conflict with the law by filing a complaint with the prosecutor or the municipal court in cases where a preliminary investigation is required. In Manila and other chartered cities, if their charters so provide, the complaint shall be filed with the Office of the Prosecutor. It may also be filed directly with the Family Court if no preliminary investigation is required under Sec. 1 of Rule 112 of the Rev. Rules of Criminal Procedure.

All criminal actions commenced by complaint or information shall be prosecuted under the direction and control of the public prosecutor assigned to the Family Court.

1.4.1.5. Prosecution of civil action

When a criminal action is instituted against a juvenile in conflict with the law, the action for recovery of civil liability arising from the offense charged shall be governed by Rule 111 of the Rev. Rules of Criminal Procedure.[337]

1.4.1.6. Venue

Subject to the provisions of Sec. 15 of Rule 110 of the Rev. Rules of Criminal Procedure, any criminal or civil action involving a juvenile in conflict with the law shall be instituted and tried in the Family Court of or nearest the place where the offense was committed or where any of its essential elements occurred.[338]

1.4.1.7. When bail a matter of right[339]

All juveniles in conflict with the law shall be admitted to bail as a matter of right before final conviction of an offense not punishable by death, reclusion perpetua or life imprisonment.

In the event the juvenile cannot post bail for lack of financial resources, the Family Court shall commit the juvenile pursuant to Sec. 18 of the Rule on Juveniles in Conflict with the Law.

However, where the juvenile does not pose a threat to public safety, the Family Court may, motu proprio or upon motion and recommendation of the DSWD, release the juvenile on recognizance to the custody of his parents or other responsible person.

1.4.1.8. When bail not a matter of right

No juvenile charged with an offense punishable by death, reclusion perpetua or life imprisonment shall be admitted to bail when evidence of guilt is strong.[340]

1.4.1.9. Case study report

After the institution of the criminal action, the social worker of the Family Court shall immediately undertake a case study of the juvenile and his family, his environment and such other matters relevant to the proper disposition of the case. His report shall be submitted within the period fixed by the Family Court, preferably before arraignment, to aid it in the proper disposition of the case.[341]

1.4.1.10. Diversion proceedings before arraignment

Where the maximum penalty imposed by law for the offense with which the juvenile in conflict with the law is charged is imprisonment of not more than six (6) months, regardless of fine or fine alone regardless of amount, and the corresponding complaint or information is filed with the Family Court, the case shall not be set for arraignment; instead, it shall forthwith be referred to the Diversion Committee which shall determine whether the juvenile can be diverted and referred to alternative measures or services offered by non-court institutions. Pending determination by the Committee, the Court shall deliver the juvenile on recognizance to the custody of his parents or legal guardian who shall be responsible for the presence of the juvenile during the diversion proceedings.[342]

1.4.1.11. Diversion Committee [343]

In each Family Court, there shall be a Diversion Committee to be composed of its Branch Clerk of Court as chairperson, and the prosecutor, a lawyer of the Public Attorney's Office and the social worker assigned to the said Family Court as members.

The chairperson of the Committee shall call for a conference with notice to the juvenile, his parents/legal guardian and his counsel, and the private complainant and his counsel, and recommend to the Family Court whether the juvenile should be diverted to a diversion program or undergo formal court proceedings. In making its recommendation, the Committee shall consider the following factors:

- The record of the juvenile on his conflict with the law;
- Whether the imposable maximum penalty of the offense is more than six (6) months, regardless of fine; or only a fine, regardless of amount;
- Whether the juvenile is an obvious threat to himself and/or the community;
- Whether the juvenile is unrepentant;
- Whether the juvenile or his parents are indifferent or hostile;
- Whether the juvenile's relationships with his peers increase the possibility of delinquent behavior.

If the Committee recommends diversion, it shall submit the diversion program for the juvenile for the consideration and approval of the Court.

The Committee cannot recommend diversion should the juvenile or the private complainant object thereto. If no diversion program is recommended, the Court shall include the case in its calendar for formal proceedings.

Consent to diversion by the juvenile or payment by him of civil indemnity shall not, in any way, be construed as admission of guilt and used as evidence against him in the event that his case is included in the court calendar for formal proceedings.

1.4.1.12. Diversion programs[344]

The diversion program designed by the Committee shall be distinct to each juvenile in conflict with the law limited for a specific period. It may include any or a combination of the following:

- Written or oral reprimand or citation;
- Return of property;
- Payment of the damage caused;

- Written or oral apology;
- Guidance and supervision orders;
- Counseling for the juvenile and his family;
- Training, seminars and lectures on
 - g.1. anger management skills;
 - g.2. problem-solving and/or conflict resolution skills;
 - g.3. values formation; and
 - g.4. other skills that will aid the juvenile to properly deal with situations that can lead to a repetition of the offense;
- Participation in available community-based programs;
- Institutional care and custody; or
- Work-detail program in the community.

1.4.1.13. Hearing of Diversion Program

The Family Court shall set the recommendation and diversion program for hearing within ten (10) days from receipt thereof.[345]

1.4.1.14. Undertaking[346]

In all cases where a juvenile in conflict with the law is given the benefit of a diversion program, an undertaking describing the program shall be signed by him, his parents or legal guardian and the complainant, and approved by the Family Court. The program, which shall be enforced under the supervision and control of the Family Court, shall contain the following terms and conditions:

- The juvenile shall present himself to the social worker of the Family Court that approved the diversion program at least once a month for evaluation of its effectiveness. Whenever the juvenile is permitted to reside in a place under the jurisdiction of another Family Court, control and supervision over him shall be transferred to the Family Court of that place, and in such case, a copy of the undertaking, the intake and case study reports and other pertinent records shall be furnished the said court. Thereafter, the Family Court to which jurisdiction over the juvenile is transferred shall have the power with respect to the latter that was previously possessed by the Family Court that approved the diversion and such other conditions as the Committee may deem just and proper under the circumstances.
- The juvenile shall faithfully comply with the terms and conditions in the undertaking. His non-compliance shall be referred by the Committee to the Family Court where the case has been transferred for a show-cause hearing with notice to the juvenile and private complainant. The Court shall determine whether the juvenile should continue with the diversion program or his case returned to the original court for formal proceedings.

The Family Court shall exert its best efforts to secure satisfaction of the civil liability of the juvenile and his parents or guardian. However, inability to pay the said liability shall not by itself be a ground to discontinue the diversion program of the juvenile.

1.4.1.15. Closure order

The juvenile subject of diversion proceedings shall be visited periodically by the Family Court social worker who shall submit to the Committee his reports thereon. At any time before or at the end of the diversion period, a report recommending closure or extension of diversion, as the case may be, shall be filed by the Committee with the Family Court. The report and recommendation shall be heard by the Family Court within fifteen (15) days from its receipt thereof, with notice to the members of the Committee, the juvenile and his parents or legal guardian and counsel and the complainant to determine whether the undertaking has been fully and satisfactorily complied with. If the juvenile has complied with his undertaking, the Family Court shall issue the corresponding closure order terminating the diversion program. It may, however, extend the period of diversion to give the juvenile a further chance to be rehabilitated. In the event the Court finds that the diversion program will no longer serve its purpose, it shall include the case of the juvenile in its calendar for formal proceedings.[347]

1.4.1.16. Arraignment and plea[348]

The provisions of Rules 116 and 117 of the Rev. Rules of Criminal Procedure shall apply to the arraignment of the juvenile in conflict with the law. The arraignment shall be scheduled within seven (7) days from the date of the filing of the complaint or information with the Family Court, unless a shorter period is provided for by law.

Arraignment shall be held in chambers and conducted by the Judge by furnishing the juvenile a copy of the complaint or information, reading the same in a language or dialect known to and understood by him, explaining the nature and consequences of a plea of guilty or not guilty and asking him what his plea is.

1.4.1.17. Pre-trial[349]

The provisions of Rule 118 of the Rev. Rules of Criminal Procedure shall govern the pre-trial of the juvenile in conflict with the law. Agreements or admissions made during the pre-trial conference shall be in writing and signed by the juvenile, his parents or guardian and his counsel; otherwise, they cannot be used against him.

Whenever possible and practicable, the Family Court shall explore all possibilities of settlement of the case, except its criminal aspect. Plea bargaining shall be resorted to only as a last measure when it will serve the best interests of the juvenile and the demands of restorative justice.

1.4.2. During Trial

1.4.2.1. Trial

All hearings shall be conducted in a manner conducive to the best interests of the juvenile and in an environment that will allow him to participate fully and freely in accordance with the Rule on Examination of a Child Witness. [350]

1.4.2.2. Duty of the Family Court to protect the rights of the juvenile [351]

In all criminal proceedings in the Family Court, the Judge shall ensure the protection of the following rights of the juvenile in conflict with the law:

- To be presumed innocent until the contrary is proved beyond reasonable doubt.
- To be informed promptly and directly of the nature and cause of the charge against him, and if appropriate, through his parents or legal guardian.
- To be present at every stage of the proceedings, from arraignment to promulgation of judgment. The juvenile may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail, unless his presence at the trial is specifically ordered by the court for purposes of identification. The absence of the juvenile without

justifiable cause at the trial of which he had notice shall be considered a waiver of his right to be present thereat. When the juvenile under custody escapes, he shall be deemed to have waived his right to be present in all subsequent hearings until custody over him is regained.

- To have legal and other appropriate assistance in the preparation and presentation of his defense.
- To testify as a witness in his own behalf and subject to cross-examination only on matters covered by direct examination, provided that the Rule on the Examination of a Child Witness shall be observed whenever convenient and practicable.

The juvenile shall not be compelled to be a witness against himself and his silence shall not in any manner prejudice him.

- To confront and cross-examine the witnesses against him.
- To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf.
- To have speedy and impartial trial, with legal or other appropriate assistance and preferably in the presence of his parents or legal guardian, unless such presence is considered not to be in the best interests of the juvenile taking into account his age or other peculiar circumstances.
- To be accorded all the rights under the Rule on Examination of a Child Witness.
- To have his privacy fully respected in all stages of the proceedings.

1.4.2.3. Care of juveniles in conflict with the law

The juvenile charged with having committed a delinquent act, held for trial or while the case is pending appeal, if unable to furnish bail or is denied bail, shall from the time of his being taken into custody be committed by the Family Court to the care of the DSWD, a youth detention center, or a local rehabilitation center recognized by the government in the province, city or municipality within the jurisdiction of the said court. The center or agency concerned shall be responsible for the juvenile's appearance in court whenever required. In the absence of any such center or agency within a reasonable distance from the venue of the trial, the juvenile shall be detained in the provincial, city or municipal jail which shall provide adequate quarters for the juvenile separate from adult detainees and detainees of the opposite sex. [352]

1.4.2.4. Prohibition against labeling

In the conduct of proceedings from initial contact with the juvenile in conflict with the law to the final disposition of the case, there shall be no branding or labeling of the latter as a young criminal, juvenile delinquent, prostitute, vagrant, or attaching to him in any manner any derogatory name. Likewise, no discriminatory remarks and practices shall be allowed, particularly with respect to the juvenile's social or economic status, physical disability or ethnic origin.[353]

1.4.3. After Trial

1.4.3.1. Guiding principles in judging the juvenile[354]

Subject to the provisions of the Rev. Penal Code, as amended, and other special laws, the judgment against a juvenile in conflict with the law shall be guided by the following principles:

- It shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interests

of the juvenile, the rights of the victim, the needs of society in line with the demands of restorative justice.

- Restrictions on the personal liberty of the juvenile shall be limited to the minimum. Where discretion is given by law to the judge to determine whether the penalty to be imposed is fine or imprisonment, the imposition of the latter should be preferred as the more appropriate penalty.

- No corporal punishment shall be imposed.

1.4.3.2. Exemption from criminal liability[355]

A minor under nine (9) years of age at the time of the commission of the offense shall be exempt from criminal liability.

A minor nine (9) years and above but under fifteen (15) years of age at the time of the commission of the offense shall be committed to the care of his father or mother, or nearest relative or family friend, in the sound discretion of the Court and subject to its supervision. However, if the prosecution proves that he has acted with discernment, he shall be proceeded against in accordance with Secs. 24 to 28, or 36 to 40 of the Rule on Juveniles in Conflict with the Law, as the case may be, and subjected to a delinquency prevention program as determined by the Court.

1.4.3.3. Promulgation of sentence

If after trial the Family Court should find the juvenile in conflict with the law guilty, it shall impose the proper penalty, including any civil liability which the juvenile may have incurred, and promulgate the sentence in accordance with Sec. 6 of Rule 120 of the Rev. Rules of Criminal Procedure.[356]

1.4.3.4. Automatic suspension of sentence and disposition orders[357]

The sentence shall be suspended without need of application by the juvenile in conflict with the law. The Court shall set the case for disposition conference within fifteen (15) days from the promulgation of sentence which shall be attended by the social worker of the Family Court, the juvenile, and his parents or guardian ad litem. It shall proceed to issue any or a combination of the following disposition measures best suited to the rehabilitation and welfare of the juvenile:

- Care, guidance, and supervisory orders;
- Community service orders;
- Drug and alcohol treatment;
- Participation in group counseling and similar activities;
- Commitment to the Youth Rehabilitation Center of the DSWD or other centers for juveniles in conflict with the law authorized by the Secretary of the DSWD.

The Social Services and Counseling Division (SSCD) of the DSWD shall monitor the compliance by the juvenile in conflict with the law with the disposition measure and shall submit regularly to the Family Court a status and progress report on the matter. The Family Court may set a conference for the evaluation of such report in the presence, if practicable, of the juvenile, his parents or guardian, and other persons whose presence may be deemed necessary.

The benefits of suspended sentence shall not apply to a juvenile in conflict with the law who has once enjoyed suspension of sentence, or to one who is convicted of an offense punishable by death, reclusion perpetua or life imprisonment, or when, at the time of promulgation of judgment, the juvenile is already eighteen (18) years of age or over.

1.4.3.5. Discharge of juvenile subject of disposition measure[358]

Upon recommendation of the SSCD and a duly authorized representative of the DSWD, the head of an appropriate center or the duly accredited child-caring agency which has custody over the juvenile, the Family Court shall, after due notice to all parties and hearing, dismiss the case against the juvenile who has been issued disposition measures, even before he has reached eighteen (18) years of age, and order a final discharge if it finds that the juvenile has behaved properly and has shown the capability to be a useful member of the community.

If the Family Court, however, finds that the juvenile has not behaved properly, has been incorrigible, has not shown the capability of becoming a useful member of society, has willfully failed to comply with the conditions of his disposition or rehabilitation program, or should his continued stay in the training institution where he has been assigned be not in his best interests, he shall be brought before the court for execution of his judgment.

If the juvenile in conflict with the law has reached the age of eighteen (18) years while in commitment, the Family Court shall determine whether to dismiss the case in accordance with the preceding first paragraph or to execute the judgment of conviction. In the latter case, unless the juvenile has already availed of probation under Presidential Decree No. 603 or other similar laws, he may apply for probation if qualified under the provisions of the Probation Law.

The final release of the juvenile shall not extinguish his civil liability. The parents and other persons exercising parental authority over the juvenile shall be civilly liable for the injuries and damages caused by the acts or omissions of the juvenile living in their company and under their parental authority subject to the appropriate defenses provided by law.

1.4.3.6. Probation as an alternative to imprisonment

After the promulgation of sentence and upon application at any time by the juvenile in conflict with the law within the period to appeal, the Family Court may place the juvenile on probation, if he is qualified under the Probation Law. [359]

1.4.3.7. Credit in service of sentence[360]

The juvenile in conflict with the law who has undergone preventive imprisonment shall be credited in the service of his sentence consisting of deprivation of liberty, with the full time during which he has undergone preventive imprisonment, if he agrees voluntarily in writing to abide by the same or similar disciplinary rules imposed upon convicted prisoners, except in any of the following cases:

- When the juvenile is a recidivist or has been convicted previously twice or more times of any crime; or
- When upon being summoned for execution of sentence, he failed to surrender voluntarily.

If the juvenile does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall be credited in the service of his sentence with four-fifths (4/5) of the time during which he has undergone preventive imprisonment.

Whenever the juvenile has undergone preventive imprisonment for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. In case the maximum penalty to which the juvenile may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

Any form of physical restraint imposed on the juvenile in conflict with the Jaw, including community service and

commitment to a rehabilitation center, shall be considered preventive imprisonment.

1.4.3.8. Confidentiality of proceedings and records[361]

All proceedings and records involving juveniles in conflict with the Law from initial contact until final disposition of the case by the Family Court shall be considered privileged and confidential. The public may be excluded from the proceedings, and pursuant to the provisions of Sec. 31 of the Rule on Examination of a Child Witness, the records shall not be disclosed directly or indirectly to anyone by any of the parties or the participants in the proceedings for any purpose whatsoever, except to determine if the juvenile may have his sentence suspended under Sec. 25 of the Rule on Juveniles in Conflict with the Law or if he may be granted probation under the Probation Law, or to enforce the civil liability imposed in the criminal action.

The Family Court shall take other measures to protect this confidentiality of proceedings including non-disclosure of records to the media, the maintenance of a separate police blotter for cases involving juveniles in conflict with the law and the adoption of a system of coding to conceal material information, which will lead to the juvenile's identity. Records of juveniles in conflict with the law shall not be used in subsequent proceedings or cases involving the same offender as an adult.

1.4.3.9. Sealing of records [362]

The Family Court *motu proprio*, or on application of a person who has been adjudged a juvenile in conflict with the law, or if still a minor, on motion of his parents or legal guardian, shall, upon notice to the prosecution and after hearing, order the sealing of the records of the case if it finds that two (2) years have elapsed since the final discharge of the juvenile after suspension of sentence or probation, or from the date of the closure order and he has no pending case of an offense or a crime involving moral turpitude.

Upon entry of the order, the case shall be treated as if it never occurred. All index references shall be deleted and in case of inquiry, the Family Court, prosecution, law enforcement officers and other offices and agencies that dealt with the case shall reply that no record exists with respect to the juvenile concerned. Copies of the order shall be sent to these officials and agencies named in the order. Inspection of the sealed records thereafter may be permitted only by order of the Family Court upon petition of the juvenile who is the subject of the records or of other proper parties.

This procedure shall be without prejudice to the rule on destruction of video or audio tapes under Sec. 31 of the Rule on the Examination of a Child Witness.

1.5. Examination of a Child Witness

1.5.1. Applicability of the Rule on Examination of a Child Witness

Unless otherwise provided, the Rule on Examination of a Child Witness shall govern the examination of child witnesses who are victims of crime, accused of a crime, and witnesses to crime. It shall apply in all criminal proceedings and non-criminal proceedings involving child witnesses.[363]

A "child witness" is any person who at the time of giving testimony is below the age of eighteen (18) years. In child abuse cases, a child includes one over eighteen (18) years but is found by the court as unable to fully take care of himself or protect himself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.[364]

1.5.2. Guardian ad litem[365]

1.5.2.1. The court may appoint a guardian ad litem for a child who is a victim of, accused of, or a witness to a crime to promote the best interests of the child. In making the appointment, the court shall consider the background of the guardian ad litem and his familiarity with the judicial process, social service programs, and child development, giving preference to the parents of the child, if qualified. The guardian ad litem may be a member of the Philippine Bar. A person who is a witness in any proceeding involving the child cannot be appointed as a guardian ad litem.

1.5.2.2. The guardian ad litem:

- Shall attend all interviews, depositions, hearings, and trial proceedings in which a child participates;
- Shall make recommendations to the court concerning the welfare of the child;
- Shall have access to all reports, evaluations, and records necessary to effectively advocate for the child, except privileged communications;
- Shall marshal and coordinate the delivery of resources and special services to the child;
- Shall explain, in language understandable to the child, all legal proceedings, including police investigations, in which the child is involved;
- Shall assist the child and his family in coping with the emotional effects of crime and subsequent criminal or non-criminal proceedings in which the child is involved;
- May remain with the child while the child waits to testify;
- May interview witnesses; and
- May request additional examinations by medical or mental health professionals if there is a compelling need therefor.

1.5.2.3. The guardian ad litem shall be notified of all proceedings but shall not participate in the trial. However, he may file motions pursuant to Secs. 9, 10, 25, 26, 27 and 31 (c) of the Rule on Examination of a Child Witness. If the guardian ad litem is a lawyer, he may object during trial that questions asked of the child are not appropriate to his developmental level.

1.5.2.4. The guardian ad litem may communicate concerns regarding the child to the court through an officer of the court designated for that purpose.

1.5.2.5. The guardian ad litem shall not testify in any proceeding concerning any information, statement, or opinion received from the child in the course of serving as a guardian ad litem, unless the court finds it necessary to promote the best interests of the child.

1.5.2.6. The guardian ad litem shall be presumed to have acted in good faith in compliance with his duties described in sub-sec. (b) of Sec. 5 of the Rule on Examination of a Child Witness.

1.5.3. Competency [366]

Every child is presumed qualified to be a witness. However, the court shall conduct a competency examination of a child, *motu proprio* or on motion of a party, when it finds that substantial doubt exists regarding the ability of the child to perceive, remember, communicate, distinguish truth from falsehood, or appreciate the duty to tell the truth in court.

1.5.3.1. Proof of necessity

A party seeking a competency examination must present proof of necessity of competency examination. The age of the child by itself is not a sufficient basis for a competency examination.

1.5.3.2. Burden of proof

To rebut the presumption of competence enjoyed by a child, the burden of proof lies on the party challenging his competence.

1.5.3.3. Persons allowed on competency examination

Only the following are allowed to attend a competency examination:

- The judge and necessary court personnel;
- The counsel for the parties;
- The guardian ad litem;
- One or more support persons for the child; and
- The defendant, unless the court determines that competence can be fully evaluated in his absence.

1.5.3.4. Conduct of examination

Examination of a child as to his competence shall be conducted only by the judge. Counsel for the parties, however, can submit questions to the judge that he may, in his discretion, ask the child.

1.5.3.5. Developmentally appropriate questions

The questions asked at the competency examination shall be appropriate to the age and developmental level of the child; shall not be related to the issues at trial; and shall focus on the ability of the child to remember, communicate, distinguish between truth and falsehood, and appreciate the duty to testify truthfully.

1.5.3.6. Continuing duty to assess competence

The court has the duty of continuously assessing the competence of the child throughout his testimony.

1.5.4. Oath or affirmation

Before testifying, a child shall take an oath or affirmation to tell the truth.[367]

1.5.5. Examination of a child witness[368]

The examination of a child witness presented in a hearing or any proceeding shall be done in open court. Unless the witness is incapacitated to speak, or the question calls for a different mode of answer, the answers of the witness shall be given orally.

The party who represents a child witness or the guardian ad litem of such child witness, may, however, move the court to allow him to testify in the manner provided by the Rule on Examination of a Child Witness.

1.5.6. Interpreter for the child[369]

1.5.6.1. When a child does not understand the English or Filipino language or is unable to communicate in said languages due to his developmental level, fear, shyness, disability, or other similar reason, an interpreter whom the child can understand and who understands the child may be appointed by the court, motu proprio or upon motion, to interpret for the child.

1.5.6.2. If a witness or a member of the family of the child is the only person who can serve as an interpreter for the child, he shall not be disqualified and may serve as the interpreter of the child. The interpreter, however, who is also a witness, shall testify ahead of the child.

1.5.6.3. An interpreter shall take an oath or affirmation to make a true and accurate interpretation.

1.5.7. Facilitator to pose questions to child[370]

1.5.7.1. The court may, *motu proprio* or upon motion, appoint a facilitator if it determines that the child is unable to understand or respond to questions asked. The facilitator may be a child psychologist, psychiatrist, social worker, guidance counselor, teacher, religious leader, parent, or relative.

1.5.7.2. If the court appoints a facilitator, the respective counsels for the parties shall pose questions to the child only through the facilitator. The questions shall either be in the words used by counselor, if the child is not likely to understand the same, in words that are comprehensible to the child and which convey the meaning intended by counsel.

1.5.7.3. The facilitator shall take an oath or affirmation to pose questions to the child according to the meaning intended by counsel.

1.5.8. Support persons[371]

1.5.8.1. A child testifying at a judicial proceeding or making a deposition shall have the right to be accompanied by one or two persons of his own choosing to provide him emotional support.

- Both support persons shall remain within the view of the child during his testimony.
- One of the support persons may accompany the child to the witness stand, provided the support person does not completely obscure the child from the view of the opposing party, judge, or hearing officer.
- The court may allow the support person to hold the hand of the child or take other appropriate steps to provide emotional support to the child in the course of the proceedings.
- The court shall instruct the support person not to prompt, sway, or influence the child during his testimony.

1.5.8.2. If the support person chosen by the child is also a witness, the court may disapprove the choice if it is sufficiently established that the attendance of the support person during the testimony of the child would pose a substantial risk of influencing or affecting the content of the testimony of the child.

1.5.8.3. If the support person who is also a witness is allowed by the court, his testimony shall be presented ahead of the testimony of the child.

1.5.9. Waiting area for child witness

The courts are encouraged to provide a waiting area for children that is separate from waiting areas used by other persons. The waiting area for children should be furnished to make a child comfortable.[372]

1.5.10. Courtroom environment[373]

To create a more comfortable environment for the child, the court may, in its discretion, direct and supervise the location, movement and deportment of all persons in the courtroom including the parties, their counsel, child, witnesses, support persons, guardian ad litem, facilitator, and court personnel. The child may be allowed to testify from a place other than the witness chair. The witness chair or other place from which the child testifies may be

turned to facilitate his testimony but the opposing party and his counsel must have a frontal or profile view of the child during the testimony of the child. The witness chair or other place from which the child testifies may also be rearranged to allow the child to see the opposing party and his counsel, if he chooses to look at them, without turning his body or leaving the witness stand. The judge need not wear his judicial robe.

Nothing in this section or any other provision of law, except official in-court identification provisions, shall be construed to require a child to look at the accused.

Accommodations for the child under this section need not be supported by a finding of trauma to the child.

1.5.11. Testimony during appropriate hours

The court may order that the testimony of the child should be taken during a time of day when the child is well-rested.[374]

1.5.12. Recess during testimony

The child may be allowed reasonable periods of relief while undergoing direct, cross, re-direct, and re-cross examinations as often as necessary depending on his developmental level.[375]

1.5.13. Testimonial aids

The court shall permit a child to use dolls, anatomically-correct dolls, puppets, drawings, mannequins, or any other appropriate demonstrative device to assist him in his testimony.[376]

1.5.14. Emotional security item

While testifying, a child shall be allowed to have an item of his own choosing such as a blanket, toy, or doll.[377]

1.5.15. Approaching the witness

The court may prohibit a counsel from approaching a child if it appears that the child is fearful of or intimidated by the counsel.[378]

1.5.16. Mode of questioning[379]

The court shall exercise control over the questioning of children so as to (1) facilitate the ascertainment of the truth, (2) ensure that questions are stated in a form appropriate to the developmental level of the child, (3) protect children from harassment or undue embarrassment, and (4) avoid waste of time.

The court may allow the child witness to testify in a narrative form.

1.5.17. Leading questions

The court may allow leading questions in all stages of examination of a child if the same will further the interests of justice.[380]

1.5.18. Objections to questions

Objections to questions should be couched in a manner so as not to mislead, confuse, frighten, or intimidate the child.[381]

1.5.19. Corroboration

Corroboration shall not be required of a testimony of a child. His testimony, if credible by itself, shall be sufficient to support a finding of fact, conclusion, or judgment subject to the standard of proof required in criminal

and non-criminal cases.[382]

1.5.20. Excluding the public

When a child testifies, the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made to protect the right to privacy of the child or if the court determines on the record that requiring the child to testify in open court would cause psychological harm to him, hinder the ascertainment of truth, or result in his inability to effectively communicate due to embarrassment, fear, or timidity. In making its order, the court shall consider the developmental level of the child, the nature of the crime, the nature of his testimony regarding the crime, his relationship to the accused and to persons attending the trial, his desires, and the interests of his parents or legal guardian. The court may, *motu proprio*, exclude the public from the courtroom if the evidence to be produced during trial is of such character as to be offensive to decency or public morals. The court may also, on motion of the accused, exclude the public from trial, except court personnel and the counsel of the parties.[383]

1.5.21. Persons prohibited from entering and leaving courtroom

The court may order that persons attending the trial shall not enter or leave the courtroom during the testimony of the child.[384]

1.5.22. Live-link television testimony in criminal cases where the child is a victim or a witness[385]

1.5.22.1. The prosecutor, counselor the guardian ad litem may apply for an order that the testimony of the child be taken in a room outside the courtroom and be televised to the courtroom by live-link television.

Before the guardian ad litem applies for an order under this section, he shall consult the prosecutor or counsel and shall defer to the judgment of the prosecutor or counsel regarding the necessity of applying for an order. In case the guardian ad litem is convinced that the decision of the prosecutor or counsel not to apply will cause the child serious emotional trauma, he himself may apply for the order.

The person seeking such an order shall apply at least five (5) days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

1.5.22.2. The court may, *motu proprio*, hear and determine, with notice to the parties, the need for taking the testimony of the child through live-link television.

1.5.22.3. The judge may question the child in chambers, or in some comfortable place other than the courtroom, in the presence of the support person, guardian ad litem, prosecutor, and counsel for the parties. The questions of the judge shall not be related to the issues at trial but to the feelings of the child about testifying in the courtroom.

1.5.22.4. The judge may exclude any person, including the accused, whose presence or conduct causes fear to the child.

1.5.22.5. The court shall issue an order granting or denying the use of live-link television and stating the reasons therefor. It shall consider the following factors:

- The age and level of development of the child;
- His physical and mental health, including any mental or physical disability;
- Any physical, emotional, or psycho-logical injury experienced by him;
- The nature of the alleged abuse;

- Any threats against the child;
- His relationship with the accused or adverse party;
- His reaction to any prior encounters with the accused in court or elsewhere;
- His reaction prior to trial when the topic of testifying was discussed with him by parents or professionals;
- Specific symptoms of stress exhibited by the child in the days prior to testifying;
- Testimony of expert or lay witnesses;
- The custodial situation of the child and the attitude of the members of his family regarding the events about which he will testify; and
- Other relevant factors, such as court atmosphere and formalities of court procedure.

1.5.22.6. The court may order that the testimony of the child be taken by live-link television if there is a substantial likelihood that the child would suffer trauma from testifying in the presence of the accused, his counsel or the prosecutor as the case may be. The trauma must be of a kind which would impair the completeness or truthfulness of the testimony of the child.

1.5.22.7. If the court orders the taking of testimony by live-link television:

- The child shall testify in a room separate from the courtroom in the presence of the guardian ad litem; one or both of his support persons; the facilitator and interpreter, if any; a court officer appointed by the court, persons necessary to operate the closed-circuit television equipment; and other persons whose presence are determined by the court to be necessary to the welfare and well-being of the child;
- The judge, prosecutor, accused and counsel for the parties shall be in the courtroom. The testimony of the child shall be transmitted by live-link television into the courtroom for viewing and hearing by the judge, prosecutor, counsel for the parties, accused, victim, and the public unless excluded.
- If it is necessary for the child to identify the accused at trial, the court may allow the child to enter the courtroom for the limited purpose of identifying the accused, or the court may allow the child to identify the accused by observing the image of the latter on a television monitor.
- The court may set other conditions and limitations on the taking of the testimony that it finds just and appropriate, taking into consideration the best interests of the child.

1.5.22.8. The testimony of the child shall be preserved on videotape, digital disc, or other similar devices which shall be made part of the court record and shall be subject to a protective order as provided in Sec. 31 (b) of the Rule on Examination of a Child Witness.

1.5.23. Screens, one-way mirrors, and other devices to shield child from accused [386]

1.5.23.1. The prosecutor or the guardian ad litem may apply for an order that the chair of the child or that a screen or other device be placed in the courtroom in such a manner that the child cannot see the accused while testifying. Before the guardian ad litem applies for an order under this section, he shall consult with the prosecutor or counsel subject to the second and third paragraphs of Sec. 25 (a) of the Rule on Examination of a Child Witness. The court shall issue an order stating the reasons and describing the approved courtroom arrangement.

1.5.23.2. If the court grants an application to shield the child from the accused while testifying in the courtroom, the courtroom shall be arranged to enable the accused to view the child.

1.5.24. Video-taped deposition[387]

1.5.24.1. The prosecutor, counselor guardian ad litem may apply for an order that a deposition be taken of the testimony of the child and that it be recorded and preserved on videotape. Before the guardian ad litem applies for an order under this section, he shall consult with the prosecutor or counsel subject to the second and third paragraphs of Sec. 25 (a) of the Rule on Examination of a Child Witness.

1.5.24.2. If the court finds that the child will not be able to testify in open court at trial, it shall issue an order that the deposition of the child be taken and preserved by videotape.

1.5.24.3. The judge shall preside at the videotaped deposition of a child. Objections to deposition testimony or evidence, or parts thereof, and the grounds for the objection shall be stated and shall be ruled upon at the time of the taking of the deposition. The other persons who may be permitted to be present at the proceeding are;

- The prosecutor;
- The defense counsel;
- The guardian ad litem;
- The accused, subject to sub-sec. (e) of Sec. 27 of the Rule on Examination of a Child Witness;
- Other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child;
- One or both of his support persons, the facilitator and interpreter, if any;
- The court stenographer; and
- Persons necessary to operate the videotape equipment.

1.5.24.4. The rights of the accused during trial, especially the right to counsel and to confront and cross-examine the child, shall not be violated during the deposition.

1.5.24.5. If the order of the court is based on evidence that the child is unable to testify in the physical presence of the accused, the court may direct the latter to be excluded from the room in which the deposition is conducted. In case of exclusion of the accused, the court shall order that the testimony of the child be taken by live-link television in accordance with Sec. 25 of the Rule on Examination of a Child Witness. If the accused is excluded from the deposition, it is not necessary that the child be able to view an image of the accused.

1.5.24.6. The videotaped deposition shall be preserved and stenographically recorded. The videotape and the stenographic notes shall be transmitted to the clerk of the court where the case is pending for safekeeping and shall be made a part of the record.

1.5.24.7. The court may set other conditions on the taking of the deposition that it finds just and appropriate, taking into consideration the best interests of the child, the constitutional rights of the accused, and other relevant factors.

1.5.24.8. The videotaped deposition and stenographic notes shall be subject to a protective order as provided in Sec. 31 (b) of the Rule on Examination of a Child Witness.

1.5.24.9. If, at the time of trial, the court finds that the child is unable to testify for a reason stated in Sec. 25 (f) of the Rule on Examination of a Child Witness, or is unavailable for any reason described in Sec. 4 (c), Rule 23 of the Rules of Civil Procedure (1997), the court may admit into evidence the videotaped deposition of the child in

lieu of his testimony at the trial. The court shall issue an order stating the reasons therefor.

1.5.24.10. After the original videotaping but before or during trial, any party may file any motion for additional videotaping on the ground of newly discovered evidence. The court may order an additional videotaped deposition to receive the newly discovered evidence.

1.5.25. Protection of privacy and safety[388]

1.5.25.1. Confidentiality of records

Any record regarding a child shall be confidential and kept under seal. Except upon written request and order of the court, a record shall only be released to the following:

- Members of the court staff for administrative use;
- The prosecuting attorney;
- Defense counsel;
- The guardian ad litem;
- Agents of investigating law enforcement agencies; and
- Other persons as determined by the court.

1.5.25.2. Protective order

Any videotape or audiotape of a child that is part of the court record shall be under a protective order that provides as follows:

- Tapes may be viewed only by parties, their counsel, their expert witness, and the guardian ad litem.
- No tape, or any portion thereof, shall be divulged by any person mentioned in sub-sec. (a) of Sec. 31 of the Rule on Examination of a Child Witness to any other person, except as necessary for the trial.
- No person shall be granted access to the tape, its transcription or any part thereof unless he signs a written affirmation that he has received and read a copy of the protective order; that he submits to the jurisdiction of the court with respect to the protective order; and that in case of violation thereof, he will be subject to the contempt power of the court.
- Each of the tape cassettes and transcripts thereof made available to the parties, their counsel, and respective agents shall bear the following cautionary notice:

"This object or document and the contents thereof are subject to a protective order issued by the court in case title (case number). They shall not be examined, inspected, read, viewed, or copied by any person, or disclosed to any person, except as provided in the protective order. No additional copies of the tape or any of its portion shall be made, given, sold, or shown to any person without prior court order. Any person violating such protective order is subject to the contempt power of the court and other penalties prescribed by law."

- No tape shall be given, loaned, sold or shown to any person except as ordered by the court.
- Within thirty (30) days from receipt, all copies of the tape and any transcripts thereof shall be returned to the clerk of court for safekeeping unless the period is extended by the court on motion of a party.
- This protective order shall remain in full force and effect until further order of the court.

1.5.25.3. Additional protective orders

The court may, *motu proprio* or on motion of any party, the child, his parents, legal guardian, or the guardian *ad litem*, issue additional orders to protect the privacy of the child.

1.5.25.4. Publications of identity contemptuous

Whoever publishes or causes to be published in any format the name, address, telephone number, school, or other identifying information of a child who is or is alleged to be a victim or accused of a crime or a witness thereof, or an immediate family of the child shall be liable to the contempt power of the court.

1.5.25.5. Physical safety of child; exclusion of evidence

A child has a right at any court proceeding not to testify regarding personal identifying information, including his name, address, telephone number, school, and other information that could endanger his physical safety or his family. The court may, however, require the child to testify regarding personal identifying information in the interest of justice.

1.5.25.6. Destruction of videotapes and audiotapes

Any videotape or audiotape of a child produced under the provisions of this Rule or otherwise made part of the court record shall be destroyed after five (5) years have elapsed from the date of entry of judgment.

1.5.25.7. Records of youthful offender (now juvenile in conflict with the law)

Where a youthful offender (juvenile in conflict with the law) has been charged before any city or provincial prosecutor or before any municipal judge and the charges have been ordered dropped, all the records of the case shall be considered as privileged and may not be disclosed directly or indirectly to anyone for any purpose whatsoever.

Where a youthful offender (juvenile in conflict with the law) has been charged and the court acquits him, or dismisses the case or commits him to an institution and subsequently releases him pursuant to Chapter 3 of Pres. Decree No. 603, all the records of his case shall be considered as privileged and may not be disclosed directly or indirectly to anyone except to determine if a defendant may have his sentence suspended under Article 192 of Pres. Decree No. 603 or if he may be granted probation under the provisions of Pres. Decree No. 968 or to enforce his civil liability, if said liability has been imposed in the criminal action. The youthful offender (juvenile in conflict with the law) concerned shall not be held under any provision of law to be guilty of perjury or of concealment or misrepresentation by reason of his failure to acknowledge the case or recite any fact related thereto in response to any inquiry made to him for any purpose.

"Records" within the meaning of this sub-section shall include those which may be in the files of the National Bureau of Investigation and with any police department or government agency which may have been involved in the case.

1.5.26. Applicability of ordinary rules

The provisions of the Rules of Court on deposition, conditional examination of witnesses, and evidence shall be applied in a suppletory character.

2. NON-ADJUDICATIVE FUNCTIONS

2.1. Office of the Clerk of Court and Single Sala Court

2.1.1. As Personnel Officer

2.1.1.1. Exercises general supervision over all court personnel

There shall be a Clerk of Court for every Court, provided, however, that for every Court having four or more Branches located in the same city or municipality, there shall be an Assistant Clerk of Court, and a Branch Clerk of Court for every branch thereof, who shall be subject to the supervision of the Clerk of Court, without prejudice to other courts having a different personnel complement as may be provided for in separate laws or decrees.[389]

2.1.1.2. Certifies daily time records of all court personnel

- In line with the Civil Service Rules providing for the keeping of a record of attendance of government officials and employees, each court shall provide itself with a registry book in which to indicate the time of coming and leaving the office of all officials and employees thereat. In addition, each official and employee of each court must be required to accomplish Civil Service Form 48, in which to indicate the time of arrival in and departure from the office. The time appearing in Form 48 should tally with the time recorded in the registry book. The Clerks of Court are directly held responsible for the custody and reliability of the time recorded in the registry book. The daily time records (Form 48) must be duly certified by the Judge or the Clerk of Court before they are sent to the proper authorities.[390]

- Clerks of Court are not required to keep daily time records of their attendance.[391] In lieu thereof, the said officials are required to submit a certification of service within the period as hereinafter provided under pain of having their salaries withheld.[392] Said certification shall be in the following form:

"I HEREBY CERTIFY that I have rendered the services required of me for the period _____, 20____, to _____, 20____, in strict observance of the prescribed officer hours (*8:00 A.M. to 12 noon and 1:00 P.M. to 5:00 P.M. from Monday to Friday), except as follows: (Specify dates when service not rendered and why).

Signature

Official Title

Station

Certified Correct:

Presiding / Executive Judge

The Judges concerned shall certify to the correctness of such certification of service.

- The time records and certification of service of all court personnel shall be sent to the Leave Section of the Office of the Court Administrator [Supreme Court] in one batch immediately after the end of the month, with the

corresponding indorsements of the Clerk of Court or Branch Clerk of Court who is held responsible for the prompt submission of said records of all personnel under their supervision,[393] as well as his own certification of service, as the case may be.

- Certifications of service and monthly reports shall be sent to the Statistics Section of the Office of the Court Administrator [Supreme Court].[394]

- Communications regarding leaves of absence, resignations, deaths and retirements of personnel must be sent in quadruplicate to the Office of the Court Administrator [Administrative Office], Supreme Court, and those of the Judges must be sent to the same office but in quintuplicate copies.[395]

- Salary warrants shall not be delivered to the payees concerned if they have been absent for five (5) working days or more during the period covered by such warrants, unless such absence is covered by leave credit with pay. All salary warrants withheld shall be returned immediately to the Office of the Court Administrator [Chief Accountant, Supreme Court], accompanied by a transmittal letter indicating the reason(s) for non-delivery. If the reason is absence(s), the inclusive dates thereof shall be indicated in the letter. Likewise, salary warrants of retired or resigned employees for the last salary period of actual services rendered shall not be released to them until they are cleared by the Office of the Court Administrator [Supreme Court] of their property and money accountabilities. No salary warrants shall be released by the Office of the Court Administrator [Supreme Court] to court personnel who go to Manila to get their salaries unless they are on leave with payor on official business, as shown by written authority from the corresponding Judges or Clerks of Court, and with the prior approval thereof by the Office of the Court Administrator [Supreme Court]. All questions related to the release of salary warrants by the Clerks of Court which cannot be resolved by them shall be referred to the Office of the Court Administrator [Supreme Court] for disposition.[396]

2.1.1.3. Acts on applications for leave

The Clerk of Court acts on applications for leave of court employees in the absence of the Presiding Judge or Executive Judge.[397]

2.1.1.4. Evaluates performance ratings

The Clerk of Court evaluates performance ratings of the personnel of his office and reviews ratings of personnel of the branches.[398]

2.1.1.5. Initiates investigations

The Clerk of Court initiates investigations of erring personnel and recommends appropriate action to the Executive Judge.

2.1.1.6. Enforces regulations

The Clerk of Court enforces regulations on wearing of uniforms by court employees.[399]

2.1.1.7. Recommends applicants to vacancies in his/her office

The Clerk of Court, being the administrative officer of the Office of the Clerk of Court, may recommend to the Executive Judge applicants to any vacancy in the office.

2.1.2. As Cashier and Disbursement Officer

2.1.2.1. Duties

- Collects and receives, by himself or thru a duly appointed cashier, all monies in payment of all legal fees;
- Receives, by himself or thru a duly appointed cashier, deposits, fines and dues;
- Prepares budget proposal and vouchers for funds appropriated by the local government subject to the conditions prescribed by the grant, as well as the existing accounting and auditing requirements; and
- Disburses funds allocated by the Supreme Court upon direction and approval of the Executive Judge.

2.1.2.2. Procedural Guidelines

- Judiciary Development Fund[400]

a.1. The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cashbook properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections and Deposits for said Fund.

a.2. A separate set of official receipts shall be used for the collections for the Fund. The official receipt issued for the Fund shall invariably indicate the prefix initial of the name of the Fund, "JDF", followed immediately by the description of the kind and nature of the collection. Official receipts for the Fund shall be provided by the Supreme Court.

a.3. Deposit of the fund

The daily collections for the Fund shall be deposited everyday with the nearest branch of the Land Bank of the Philippines for the account of the Judiciary Development Fund, Supreme Court, Manila – SAVINGS ACCOUNT NO. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the period above- indicated.

All collections not deposited with the bank during the day shall be kept in the vault or safe and filing cabinet provided by the Court.

In the absence of a LBP branch, Postal Money Orders (PMOs) payable to the Chief Accountant, SC (OCA) can be purchased from the Local Post Office and sent to the latter for deposit to the JDF Savings Account.

In cases of remittances through PMOs, Clerks of Courts/ Accountable Officers are directed to check the entries on the PMO as to (a) date (staled PMOs should not be remitted); (b) amount in words and figures; and (c) signature of the Postmaster, to avoid inconvenience.

Likewise, the amount of Postal Money Order should always total collections for each type of fund and the name of the payee is to be addressed to:[401]

The Chief Accountant

Accounting Division – OCA

Supreme Court of the Philippines

Taft Avenue, Manila

a.4. Collections shall not be used for encashment of personal checks, salary checks, etc. Only Cash, Cashier's Check and Manager's Check are acceptable as payments.

a.5. Cash book for the Judiciary Development Fund can be requisitioned from the Property Division, Office of the

Court Administrator.

a.6. Rendition of monthly report

Monthly Report of Collections and Deposits shall be regularly prepared for the Judiciary Development Fund which shall be submitted to the Chief Accountant, FMO, OCA, copy furnished the FMBO, Supreme Court, the Fiscal Monitoring Division within ten (10) days after the end of every month. Duplicate copies of the official receipts issued during such month covered and validated copy of the deposit slips, should likewise be submitted. Deposit slips that are not machine validated shall not be considered as deposits.

The aggregate total of the deposit slips for any particular month should always be equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections and Deposits, and Cash Book.

If no collection is made during the month, notice to that effect should be submitted to the Chief Accountant – OCA by way of a formal letter within ten (10) days after the end of every month.[402]

a.7. Reimbursement of expenses

All ordinary and reasonable expenses incurred for the remittance of collections and transmittal of reports for the Judiciary Development Fund shall be reimbursed by the Supreme Court, OCA upon submission of the duly accomplished voucher, together with the necessary receipts and other supporting papers required in audit, direct to the Chief of Finance Division, FMO (OCA).

In no case shall expenses incurred for the Judiciary Development Fund be deducted from the collections which shall be remitted in full.

All reports and correspondence relative to collections and deposits of Judiciary Development Fund shall be addressed to:

The Chief Accountant – (OCA)
Supreme Court of the Philippines
Manila

The FMO (OCA) shall in turn submit a report thereon to the Chief Justice.

a.8. Account examination for internal control

To safeguard and control the Fund, examination of the records of the Clerks of Court, Officer-in-Charge or Accountable Officers shall be conducted by the staff and personnel of the Supreme Court, OCA whenever circumstances warrant.

- General Fund (GF)[403]

b.1. The Clerk of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the General Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR CLERK OF COURT's GENERAL FUND AND SHERIFF's GENERAL FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections and Deposits for said Fund.

b.2. Deposit of the fund

The amounts accruing to the Fund shall be deposited for the account of the General Fund, Bureau of Treasury by the Clerks of Court, Officers-in-Charge of the office of the Clerk of Court with the nearest branch of the Land

Bank of the Philippines - SAVINGS ACCOUNT NO. 0091-0001-77. In the absence of a LBP branch, Postal Money Orders (PMOs) payable to the Chief Accountant, SC (OCA) can be purchased from the Local Post Office and sent to the Chief Accountant, SC (OCA) for deposit to the Bureau of Treasury.

The aggregate total of the deposit slips for any particular month should always be equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections and Deposits, and Cash Book.

b.3. Reimbursement of Expenses for Judiciary Development Fund shall, likewise, be applied to General Fund.

- Court Fiduciary Funds[404]

c.1. Nature of the fund

All collections from bail bonds, rental deposits and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank, the Land Bank of the Philippines.

Only one depository bank shall be maintained and said bank must be formally informed by the Executive Judge as to who are the authorized signatories to the withdrawal slips.

In localities where there are no branches of authorized government depository banks or, even if there be a branch but it is impractical, for justifiable reasons, to maintain deposits therein, all fiduciary fund collections shall be deposited by the Clerk of Court with the Provincial, City or Municipal Treasurer. In either case, the Clerk of Court must first seek a favorable recommendation from the Executive Judge.

c.2. Guidelines in making deposits

- Deposits shall be made under a savings account. Current account can also be maintained provided that it is on an automatic transfer of current account from savings.

- Deposits shall be made in the name of the Court.

- The Clerk of Court shall be custodian of the passbook to be issued by the depository bank and shall advise the Executive Judge of the bank's name, branch and savings/ current account number.

c.3. Guidelines in making withdrawals

- Withdrawal slips shall be signed by the Executive Judge and countersigned by the Clerk of Court.

- If maintaining a current account, withdrawals shall be made by checks. Signatories on the checks shall likewise be the Executive Judge and the Clerk of Court.

No withdrawals, except as specifically provided herein, shall be allowed unless there is a lawful order from the Court that has jurisdiction over the subject matter involved.

c.4. Interests earned

Interests earned on these deposits and any forfeited amounts shall accrue to the Judiciary Development Fund.[405] Within two (2) weeks after the end of each quarter, the Clerk of Court shall withdraw such interests and forfeited amounts and shall remit the same to the account of the Judiciary Development Fund.

c.5. Report of the fund

Within two (2) weeks after the end of each quarter, all Clerks of Court are hereby required to submit to the Chief Accountant of the OCA, Supreme Court, a quarterly report indicating the outstanding balance maintained with the

depository bank or local treasurer, and the date, nature and amount of all deposits and withdrawals made within such period.

- Victim Compensation Fee

d.1. Nature and amount of fee

A victim compensation fee of five (P5.00) pesos pursuant to Rep. Act No. 7309 shall be assessed and collected for the filing of every complaint or petition initiating an ordinary civil action, special civil action or special proceeding in the trial courts including civil actions impliedly instituted with criminal action under Rule 111, Rev. Rules of Criminal Procedure where a filing fee is likewise collected. All sums collected shall be remitted to the Department of Justice every quarter by the Clerk of Court concerned.[406]

d.2. Guidelines[407]

- The Clerks of Court shall remit every quarter or when the collection reaches FIVE HUNDRED PESOS (P500.00), whichever comes first;
- Remittance shall be deposited to the nearest branch of the Land Bank of the Philippines within the province, city or municipality where the Clerk of Court is holding office.
- Deposit shall be for the account of the Victim Compensation Fund of the Board of Claims (BOC), Department of Justice under Current Account No. 0592-1022-42;
- In places where no Land Bank is doing banking transactions, remittances shall be in the form of money order payable to the Victim Compensation Fund of the Board of Claims (BOC), Department of Justice, Padre Faura, Manila;
- The Clerks of Court are required to submit to the Financial and Management Service, Department of Justice, quarterly report of collections and remittances (deposits) of the victim compensation fee.
- The Clerks of Court shall requisition the supply of official receipts from the Department of Justice.

- Legal Research Fee

e.1. Nature and amount of fee

In order to provide for the support of the U.P. Law Center, and the University of the Philippines Law Complex, the additional amount of one per cent (1%) of the filing fee imposed, but in no case lower than twenty (P20.00) pesos, in the case of appellate courts and the additional amount of one per cent (1%) of the filing fee imposed, but in no case lower than ten (P10.00) pesos, in the case of all other courts, including all administrative or special courts, agencies or tribunals exercising quasi-judicial functions, and those enumerated in Letter of Instructions No. 1182, issued on December 16, 1981, shall be collected by their respective Clerks of Court, or equivalent functionary, for each action or special proceeding filed therewith and for which the fees prescribed in the Rules of Court or in any statute or regulation are due and payable. For this purpose, "special proceeding" shall include any petition or application, paper or document seeking official action to establish a status, a right, privilege, or particular fact, or command the performance of a duty. Such additional amounts shall be receipted for as part of a special fund to be known as the "Legal Research Fund", and shall, upon collection, be immediately remitted to the University of the Philippines and deposited in a separate account in any authorized government depository bank in the name of the National Treasurer as Ex-Officio Treasurer of the U.P.[408]

e.2. Guidelines

- The Clerk of Court shall collect the appropriate legal research fee upon filing of the action.
- All collections shall be remitted monthly or when the collection reaches FIVE HUNDRED (P500.00) PESOS, whichever comes first, to the U.P. Law' Center, U.P. Diliman, Quezon City, by Postal Money Orders (PMOs) purchased from the Local Post Office.
- The Clerk of Court shall requisition the supply of official receipts from the U.P. Law Center.
- Sheriff's Trust Fund

f.1. Nature and amount of fee

In addition to the fees fixed in Sec. 9(1) of Rule 141, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses in serving or executing the process or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, in an amount estimated by the sheriff, subject to the approval of the Court.[409]

f.2. Guidelines

- The implementing sheriff shall estimate the expenses which he will incur in serving or executing the process;
- The estimated expenses shall be submitted to the Presiding Judge of the Court where the process originated, or from the Executive Judge, as the case may be;
- 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.[410]
- Any unspent amount shall be refunded to the party making the deposit.[411]
- 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.[412]

2.1.2.3. Accounting of Funds

- Cashbook

A cashbook must be maintained where daily transactions are recorded. One cashbook is needed for each of the following funds:

- a.1. Clerk of Court General Fund
- a.2. Sheriff's General Fund
- a.3. Judiciary Development Fund
- a.4. Fiduciary Fund
- a.5. Sheriff's Trust Fund
- a.6. Legal Research Fund
- a.7. Victim Compensation Fund
- a.8. Land Registration Fee

Cashbooks may be obtained from the Property Division of the Office of the Court Administrator.

All collections are entered daily into their corresponding cashbooks and deposited to the proper bank accounts maintained with the Land Bank of the Philippines, except for Legal Research Fund and Victims Compensation Fund which are remitted to the U.P. Law Center and Department of Justice, respectively.

- Official Receipts

b.1. Official receipt issued by the

Supreme Court shall be used only for collections that will accrue to the National Government.[413] Upon receipt of the booklets, the Clerk of Court must inspect the numerical sequence. Official receipts may be obtained from the Property Division of the Office of the Court Administrator.

b.2. In issuing official receipts, one must consume one (I) booklet at a time and must use a separate booklet for each fund account, i.e. Judiciary Development Fund, Fiduciary Fund, Sheriff Trust Fund, Clerk of Court General Fund, etc.[414] However, it shall not be used for collections of Victim Compensation Fund, Land Registration Fees and Legal Research Fund.

b.3. Official receipts shall be issued in strict numerical sequence. In filling up the receipts, the original copy will have to be written in hard indelible pencil or ballpen and the duplicate and triplicate copies will be carbon reproductions in all respects of whatever may have been written on the original. However, carbon paper must not be over-used to the extent that what is written on the duplicate, much more on the triplicate, cannot be read. The preparation of official receipts may be entrusted to subordinates but the official receipts must be signed by the Clerk of Court/Accountable Officer.[415]

Issuance of temporary receipts is prohibited.

b.4. In cases wherein cancellation of official receipts becomes inevitable, the Clerk of Court or the duly authorized representative, must present to the Provincial/City/ Municipal Auditor the spoiled and cancelled receipt/s for inspection. Under no circumstances shall destruction of accountable forms be allowed.[416]

Original copies of cancelled official receipts are to be attached to their duplicate and triplicate copies in the booklet for audit of COA and the Fiscal Monitoring Division.

b.5. In case of loss of official receipts, the Clerk of Court or the duly authorized representative must immediately report the incident to the Provincial/City/Municipal Auditor and then file an application for relief, if the circumstances warrant.[417]

b.6. Official receipts are accountable forms and an accounting of their use is required at the end of the term of the Clerk of Court/Accountable Officer.

Official receipts issued must be properly recorded in their respective books of accounts for accounting and control purposes. Official receipts must be kept in safe custody. The Clerk of Court, as the person directly responsible for all court collections, must take all reasonable steps to minimize the risk of losses, defalcations and other types of irregularities.[418]

b.7. Official receipts may be obtained from the Property Division of the Office of the Court Administrator.

2.1.2.4. Sanctions

Strict observance of the rules and regulations on collection and accounting of funds is hereby enjoined. The Clerks of Court or Officers-in-Charge shall exercise close supervision over their respective duly authorized representatives to ensure strict compliance herewith, and shall be held administratively accountable for failure to do so. Failure to comply with any of these rules and regulations shall mean the withholding of the salaries and

allowances of those concerned until compliance thereof is duly effected, pursuant to Sec. 122 of Pres. Decree No. 1445 dated June 11, 1978, without prejudice to such further disciplinary action the Court may take against them.[419]

2.1.3. As Supply Officer and Property Custodian

2.1.3.1. Approves Requisition and Issue Vouchers (RIV s) and Vouchers against funds appropriated by the local government;

2.1.3.2. Allocates and distributes court properties and supplies;

2.1.3.3. Monitors the utilization and adequacy of court facilities and needed improvements, and makes the corresponding representations to the local government or the Supreme Court;

2.1.3.4. Exercises control and supervision over the possession, custody and safekeeping of court properties and supplies.

- Credit for loss occurring in transit or due to casualty

When a loss of government funds or property occurs while the same is in transit or is caused by fire, theft, or other casualty, the officer accountable therefor shall immediately notify the Commission on Audit, or the provincial auditor, accordingly, as the matter is within the original jurisdiction of the one or the other, and within thirty (30) days or such longer period as the Auditor or provincial auditor may in the particular case allow, shall present his application for relief, with the available evidence in support thereof. An officer who fails to comply with this requirement shall not be relieved of liability or allowed credit for any such loss in the settlement of his accounts.

A provincial auditor shall not allow credit for these losses unless the Commission on Audit shall give him express authority to that effect, to be exercised only if the loss is not in excess of one hundred (P100.00) pesos. When, in any case, the allowance of credit is not within the competency of the provincial auditor, the application and evidence, with the recommendation of the provincial auditor, shall be forwarded to the Commission on Audit for action.[420]

- Expenses for maintenance of courthouses

All expenses incident to the repair, alteration, and custody of the courthouse, or courtroom and court offices, and the costs of all equipment and supplies for a Court, except as otherwise provided, shall be borne by the province, city and municipality concerned. The similar expenses of the Regional and Metropolitan Trial Courts in the City of Manila shall be borne by the City of Manila.[421]

2.1.4. Other Non-adjudicative Duties

2.1.4.1. Re: Notaries Public

- Submits to the Executive Judge official written recommendations for issuance or renewal of notarial commission prior to official action by said Executive Judge;[422]

- Prepares their commission for signing by said Judge;

- Notifies notaries public of their failure to submit their monthly reports;

- Issues clearances to notaries public certifying to the fact that they have complied with the provisions of law regarding submission of notarial reports;

- Installs systematic safekeeping and storage of notarial reports and documents submitted by notaries public;
- Requisitions notarial books for distribution to notaries public; and
- Assists the Executive Judge in implementing Adm. Circular No. 11-93, June 30, 1993, directing the latter to monitor closely the activities of notaries public to ensure the integrity and effectiveness of their office, conformably with Canon 2 of the Canons of Professional Responsibility which provides: "A lawyer shall make his legal services available in an efficient and convenient manner compatible with independence, integrity and effectiveness of the profession."

The Executive Judges concerned may impose appropriate administrative sanctions against erring notaries public, including but not limited to the supervision, withdrawal or cancellation of their commission.

2.1.4.2. Re: Documents

- Appears personally or thru his deputy, in hearings when so required, producing documents subpoenaed; and
- Accompanies, personally or thru his deputy, documents to NBI or CIS laboratory for examination.

2.1.4.3. Re: Certifications or Clearances

Upon prior application or request, Clerks of Court shall issue and/or furnish to all concerned certifications and/or clearances on real estate, personal and/or other properties involved in court litigations or as to the criminal records of persons subject of the request or application. Barangay officials, however, are exempt from payment of clearance fees.[423]

2.1.5. Financial reports

2.1.5.1. Reports and Reporting to the Supreme Court

- Monthly reports for the Clerk of Court General Fund, Sheriff's General Fund, Fiduciary Fund, Sheriff's Trust Fund and Judiciary Development Fund shall be submitted to the Accounting Division, Office of the Court Administrator not later than the 10th day of the succeeding month as laid down in Circular No. 32-93 dated July 9, 1993.

In cases where remittances are made through Postal Money Order (PMO), the amount of the PMO should always equal the total collections for each type of fund. The payee shall be:[424]

The Chief Accountant Accounting Division – OCAD Supreme Court of the Philippines Taft Avenue, Manila

If no collection is made during the month, notice to that effect should be submitted to the above address by way of a formal letter within ten (10) days after the end of every month.[425]

- Reports for the Victim Compensation Fund shall be submitted to the Department of Justice.
- Reports for the Legal Research Fund shall be submitted to the U.P. Law Center.
- Reports for Land Registration Fees shall be submitted to the Land Registration Authority.
- Attached to the monthly reports for submission to these various offices are the duplicate copies of used official receipts (blue copy) and validated bank deposit slips/PMO stubs. Additional supporting documents for the Fiduciary Fund report are copies of withdrawal slips, order of the Court and acknowledgment receipt of the party who received the money withdrawn.
- The Clerk of Court shall maintain file copies of reports and other supporting papers submitted to the Accounting

Division for referral and audit purposes since original reports are forwarded to the Commission on Audit after having been recorded in the books of the Accounting Division.

2.1.5.2. Quarterly report of sheriff's foreclosure sales

The implementing sheriff shall submit to the Clerk of Court a quarterly report to include all foreclosure sales he has conducted, dates of the auction sales, descriptions of the properties, sale prices, names of the highest bidders, numbers of the official receipts issued for the fees, and the amounts paid. The Clerk of Court shall certify the report and submit the same to the Financial Management Office, Office of the Court Administrator within fifteen (15) days after the end of each quarter.[426]

All Clerks of Court in multiple sala courts are directed to send copies of the Minutes of Raffle to the Office of the Court Administrator as required by Administrative Circular No.1 dated January 28, 1988, particularly Item No. 8 (Raffle of Cases) thereof.

2.1.5.4. Statement of assets and liabilities

- All officers and employees of the government shall each file sworn statements of their financial conditions, assets and liabilities:

a.1. within thirty (30) days after assuming office, and

a.2. within the month of April every year thereafter, as well as

a.3. upon the expiration of the term of office, or within thirty (30) days after resignation or separation from office.[427]

- All those who are required to file the statement of assets, liabilities and networth, especially government officials and employees,[428] must declare truthfully and accurately all the information required to be included therein.[429]

- Clerks of Court are enjoined, one month before the required period, to inform all officials and employees of their respective courts to file their sworn statements of assets and liabilities pursuant to Rep. Act No. 3019, as amended, and to forward the same to the Office of the Court Administrator.

- The Statement of Assets, Liabilities and Networth and the Disclosure of Business Interests and Financial Connections shall be filed by:

"5. All other officials and employees defined in Republic Act No. 3019, as amended, with the Civil Service Commission."[430]

2.1.5.5. Performance ratings of personnel

The semi-annual efficiency reports of rating of the personnel in the courts corresponding to the previous six months are required to be submitted regularly to the Supreme Court on or before January 31 and July 31 of every year.[431]

2.1.5.6. Report on the condition of the Hall of Justice facilities and premises

As custodian of court properties, the Clerk of Court shall submit a monthly report to the Committee on Halls of Justice on the condition of the Hall of Justice, its equipment and premises. In this connection, he/she may request the Building Engineer/Foreman to conduct a regular inspection of the building, facilities and premises and submit a report to the Office of the Clerk of Court.

2.1.5.7. Inventory of properties

- All Clerks of Court, Branch Clerks of Court, Officers-in-charge and all accountable officers shall conduct a physical inventory of office equipment, furniture, books and other properties supplied by the Supreme Court as of 31 December of every year. The conduct of inventory must be witnessed by a representative from the nearest Commission on Audit (COA) office.[432]
- The result of such inventory should be entered in the Inventory Report Form, accomplished in triplicate, and must be duly attested by the representative of COA.[433]
- In the preparation of the inventory reports, the condition of each piece of property should be duly indicated in the "Remarks" column. The reports shall be submitted to the Property Division, Supreme Court, Manila on or before January 30, of every succeeding year.[434]
- Similar physical inventory shall be conducted of court issued properties which are no longer of service and to submit a report to the Property Division, Office of the Court Administrator, Supreme Court, Manila.[435]
- In order to provide timely preparation of reports, proper monitoring and administrative control of equipment, supplies, and accountable forms, as well as the disposal and replacement of unserviceable equipment, all Clerks of Court, Branch Clerks of Court, Officers-in-Charge, and all accountable officers are directed to properly accomplish the Inventory Report Form (see pages 587-590) in triplicate and to submit it monthly to the Property Division, Office of the Court Administrator, at least within five days after the end of every month.[436]

2.1.6. Guidelines in the Accreditation of Newspapers and Periodicals Seeking to Publish Judicial and Legal Notices and Other Similar Announcements and in the Raffle thereof[437]

2.1.6.1. Scope of application

These guidelines apply only in cases where judicial or legal notices are to be published in newspapers or periodicals that are of general circulation in a particular province or city.

Publication of notices for national dissemination may be published in newspapers or periodicals with national circulation without need of accreditation.

2.1.6.2. Requirement of accreditation

Only accredited newspapers or periodicals may publish judicial or legal notices.

2.1.6.3. Application for accreditation

A verified application for accreditation may be filed with the office of the Executive Judge of the Regional Trial Court having administrative supervision over the courts whose orders are to be published.

- The application shall include complete and accurate information on the following:

- a.1. Title of publication;
- a.2. Name of the publisher;
- a.3. Name of the editor-in-chief;
- a.4. Frequency of publication;
- a.5. Address, telephone number and fax machine number, if any, of the principal office;

a.6. Total number of copies printed (as of the date of application for accreditation); and

a.7. Month, date and year of first issue.

- A newspaper or periodical has its principal office in the address registered with the Securities and Exchange Commission or with the Department of Trade and Industry.

- A newspaper or periodical which has its principal office in any of the cities or municipalities in a province may be accredited by anyone or all of the Regional Trial Court Executive Judges in the province, provided that all requisites for accreditation are complied with.

A newspaper or periodical which has its principal office in any of the cities or municipalities in the National Capital Judicial Region may be accredited by any one or all of the Regional Trial Court Executive Judges therein, provided that it satisfies all the requirements for accreditation.

- The application for accreditation shall include statements on the following:

d.1. That the applicant is duly registered as a newspaper or periodical;

d.2. That the newspaper or periodical is edited, published and circulated in the province or city where accreditation is sought;

d.3. That the newspaper or periodical has been regularly published for at least one (1) year before the date of the application for accreditation;

d.4. That the newspaper or periodical is not participating in the raffle of legal and judicial notices in other provinces and/or cities;

d.5. Whether or not the newspaper or periodical carries commercial display advertising. If the newspaper or periodical carries such advertising, the applicant should submit a copy of the publication's current contract form showing its commercial display advertising rates; and

d.6. That the newspaper or periodical does not merely reproduce or reprint news pages of other newspapers or periodicals within the region of the province or city of the Regional Trial Court involved.

- The application for accreditation shall be accompanied by the following:

e.1. Three (3) sample copies of the newspaper's or periodical's printed format for legal and judicial notices following the requisites prescribed by Sec. 4 of Pres. Decree No. 1079, to wit:

- Font size – eight (8) points for the text or less, and not more than ten (10) points for the heading;

- Column width - more but not less than nine (9) ems; and

- Line spacing for text and heading – normal single-space.

e.2. Copy of an issue of the newspaper containing commercial advertisement published in the last twelve (12) months;

e.3. Certified true copy of a contract or insertion order or invoice describing the size and rate of the advertisement; and

e.4. Certified true copy of a newspaper's official receipt showing payment per contracted advertising rate.

2.1.6.4. Application fees

A fee shall be collected in an amount to be fixed by the Office of the Court Administrator for every application for accreditation filed with the Regional Trial Court.

2.4.6.5. Non-compliance with requirements

Any application for accreditation that fails to comply with any of the requirements prescribed by the preceding provisions shall be denied without further evaluation.

2.1.6.6. Evaluation and approval of applications

An application for accreditation shall be evaluated and approved by the Executive Judge of the Regional Trial Court having administrative supervision over the courts whose orders are to be published, taking into consideration the following criteria:

- The applicant is duly registered as a newspaper or periodical;
- The applicant must have its principal office, and must be of general circulation in the city and/or province where it seeks accreditation;

A newspaper or periodical is of general circulation if it is published for the dissemination of local news and general information (not for a limited interest group); it has a bona fide subscription list of paying subscribers; and it is published at regular intervals (*Fortune Motors Phils., Inc. v. Metropolitan Bank and Trust Co., et al.*, 265 SCRA 72 [1996]).

- The newspaper or periodical must have been regularly published for at least one (1) year before the date of each and every raffle participated in by the accredited publication; and

A newspaper or periodical is regularly published if it comes out with 365 or 52 issues for those issued daily or weekly, respectively.

- The newspaper or periodical must not merely reproduce news pages of other newspapers or periodicals within the province or city of the Regional Trial Court involved.

2.1.6.7. Absence of qualified newspapers or periodicals

In the event that there is no newspaper or periodical qualified to be accredited in the station of the Regional Trial Court, the qualified publication in the nearest city or province may be accredited.

2.1.6.8. Period of validity of accreditation

The accreditation shall be valid for a period of five (5) years from date of approval of the application for accreditation. During the five-year period, however, the accreditation may be suspended or revoked in accordance with the guidelines.

2.1.6.9. Posting of names of accredited newspaper or publication

The Executive Judge shall cause the posting of the names of the accredited newspaper or publication, the amount they charge per column inch and a sample of the maximum font and minimum column width prescribed by law in three (3) conspicuous places in the courthouse or Hall of Justice building.

2.1.6.10. Requirement of raffle

All notices, announcements and advertisements subject hereof shall be distributed for publication to accredited newspapers or periodicals by raffle. No such notices, announcements and advertisements may be assigned for publication without being raffled.

The raffle of judicial or legal notices for publication shall be included in the regular raffle of cases, provided that special raffles may be conducted for notices that need to be published before the regular raffle could be conducted.

The posting of judicial notices for publication, the raffle procedure and the publication of the results thereof shall be conducted in the same manner as the raffle of cases as provided in this Manual for Clerks of Court. All accredited newspapers or periodicals shall as much as possible be assigned an equal number of notices to publish but the same must be done thru raffle.

2.1.6.11. Directive to the Branch Clerk of Court

Orders issued by Judges in cases that require publication of any notice or notices shall include a directive to the Branch Clerk of Court instructing the latter to furnish the Office of the Clerk of Court with a copy of the order so that such notice may 'be published in accordance with the provisions of Pres. Decree No. 1079.

2.1.6.12. When raffle not necessary

The distribution by raffle of notices, announcements and advertisements for publication shall be dispensed with in case there is only one accredited newspaper or periodical in a particular province, city or municipality.

2.1.6.13. Rates of publication charges

Newspapers or periodicals whose regular commercial rates are lower than ten (P10) pesos per column inch shall not charge below ten (P10) pesos column inch of the notices, announcements and advertisements. In case of newspapers or periodicals that do not carry commercial display advertising, the rate for the publication of notices, announcements and advertisements shall be fixed at ten (P10) pesos per column inch. Newspapers or periodicals may only charge more than ten (P10) pesos up to eighty (80%) percent of their regular commercial display advertising rates when there is proper and adequate proof that the rate claimed is the regular commercial advertising rate.

2.1.6.14. Determination of rates of publication charges

The Executive Judge shall determine the allowable rates as mentioned in the preceding paragraph, using as basis the contracts and proofs of payment submitted by the publishers.

2.1.6.15. Samples of font sizes and column width

The Office of the Court Administrator shall issue the appropriate order indicating the samples of the maximum font sizes and minimum column width for notices, announcements and advertisements.

2.1.6.16. When accreditation may be suspended or revoked

The Executive Judge may suspend or revoke the accreditation of a newspaper or periodical when it is established in a summary hearing that the said newspaper or periodical no longer complies with the requirements for an accredited newspaper or periodical as prescribed herein or has violated any of the provisions of Pres. Decree No. 1079.

2.1.6.17. Appeal to the Office of the Court Administrator

Appeals in the grant and denial of accreditation or in the suspension or revocation of accreditation may be brought before the Office of the Court Administrator by the aggrieved party. The decision of the Court Administrator shall be final.

2.2. Branch Clerk of Court (including Single Sala Courts)

2.2.1. As Personnel Officer

The Branch Clerk of Court shall have the same duties of Clerk of Court in 2.1.1.

2.2.2. As Supply Officer and Property Custodian

The Branch Clerk of Court shall have the same duties of Clerk of Court in 2.1.3.

2.2.3. As Custodian of Exhibits

All exhibits used as evidence and turned over to the Court and before the easels involving such evidence shall have been terminated shall be under the custody and safekeeping of the Clerk of Court.[438]

2.2.4. Reports and Reporting

2.2.4.1. Reports to the Supreme Court

- Monthly report of cases

a.1. Rules[439]

- The revised SC Form No.1 shall be the official form for the use by the lower courts in the submission of their monthly statistical reports of cases.

- At the end of each month and with the assistance of the clerks in charge of criminal, civil and other cases, the revised SC Form No.1 must be accomplished in triplicate and certified under oath as true and correct by the Clerk of Court, Branch Clerk of Court or Officer-in-Charge. The Presiding Judge must also certify to the correctness of the report and indicate in the space provided for whether he is the regular judge or acting/pairing judge.

- The duplicate of the report should be kept on file by the concerned court and the triplicate is to be submitted to the Executive Judge for his appraisal and compilation. The original copy of the report, together with the lists of cases filed, raffled, disposed of, archived, transferred or re-raffled, or those with suspended proceedings per Administrative Circular No. 1-2001 dated 2 January 2001, must be filed with, or sent by registered mail to, the Supreme Court on or before the tenth (10th) calendar day of the succeeding month, addressed to:

The Chief
Statistical Reports Division
Court Management Office
Office of the Court
Administrator

Supreme Court of the
Philippines
Taft Avenue, Ermita,
Manila 1000

- Failure to submit the revised SC Form No.1 as required in the preceding paragraph shall warrant the withholding of salaries of those concerned without prejudice to whatever administrative sanction the Supreme Court may impose on them. Mere submission of proof of mailing does not relieve those concerned of their obligation to comply herewith.

- In case of loss of the revised SC Form No.1 while in transit, the court concerned must, upon notice by the Statistical Reports Division, CMO, of non-receipt thereof, send immediately to the said division a certified copy

of the lost or missing report, including its annexes.

- Submission of the revised SC Form No.1 is a requirement separate and distinct from other reports required by the Supreme Court

a.2. Guidelines and instructions[440]

- Mark "X" the box which is applicable to the court accomplishing the report.

- Indicate the particular branch, station or province and the month and year.

- Fill in Columns 1 to 9 of Item I (Number of Pending Cases at the Beginning of the Month) based on the number of pending cases at the end of each of the month immediately preceding the month being prepared.

Note No.1: In computing the GRAND TOTAL of cases under Column 9, add only the number of cases under Columns 1, 2, 3, 4, 5, 6, 7 and 8. EXCLUDE from the said computation the following: (a) cases under Columns 1-2-A, 1-2-B, 1-2-C, 1-2-D, 1-2-E, 1-2-F and 1-2-G, since they form part of the number of criminal cases under Columns 1 and 2; (b) cases under Column 3-A being part of the total number of ordinary civil cases under Column 3; and (c) the cases under Columns 5-A and 5-B, as they are part of the total number of special proceedings under Column 5.

- CASE INFLOW refers to the movement of cases added to the pending cases at the beginning of the month which are classified as new cases filed or raffled; revived or reopened cases; or cases received from other salas or branches due to inhibition by judges or change of venue.

Note No.2: Before filling in Item No. II-A (Number of New Cases Filed or Raffled), the specific branch or sala should indicate under the appropriate Columns of Item No. II-A1 which of the new cases are within its original jurisdiction. The RTC as an appellate court should indicate under the proper Columns of Item No. II-A-2 which of the new cases filed or raffled are appealed from 1st level courts. The municipal judge as investigating officer must indicate under the relevant Columns of Item No. II-A-3 which of the new criminal cases filed or raffled are for preliminary investigation.

(a) The number of cases to be filled in Item No. II-A (Number of New Cases Filed to Raffled) under Columns 1 to 8 are the respective sum totals of the cases falling within the court's original jurisdiction as indicated in Item II-A-1 plus the appealed cases as shown in Item No. II-A-2 (if an appellate court) and the criminal complaints for preliminary investigation appearing in Item No. II-A-3 (for some municipal judges only).

(b) Fill in Columns I to 8 of Items II-B (Number of Cases Revived or Reopened) and Item No. II-C (Number of Cases Received from the Other Salas or Branches), then indicate the respective subtotals thereof under Column 9. Cases subject of Item No. II-B are those cases which have been decided or resolved but reopened for re-trial and these cases retrieved from the archives due to the apprehension of the accused or the filing of the Answer by defendant. Cases subject of Item No. II-C are those cases transferred from co-equal courts due to the inhibition of judges or change of venue. The guidelines set forth in Note No. 1 should be observed.

- CASE OUTFLOW refers to the movement of cases deducted from the total number of cases in Item No. 1 (Number of Pending Cases at the Beginning of the Month) and Item No. II (Total Number of Cases Added) which are classified as cases decided or resolved, dismissed, or with judgment rendered on the pleadings, and the like; cases archived; and cases transferred to other salas or branches due to the inhibition of the presiding judge or change of venue.

Cases with suspended proceedings are not included in the outflow of cases.

Note No.3: Before filling Item No. III-A, the following should be indicated under the respective Columns:

Item No. III-A-1: the number of cases that were decided or resolved after trial on the merits;

Item No. III-A-2: the cases that were resolved or dismissed through compromise agreement of the parties, plea of guilty by the accused, summary judgment, judgment on the pleadings, dismissal for lack of interest or failure to prosecute the case, and the like.

Item No. III-A-3: the number of criminal complaints resolved after conducting a preliminary investigation.

(a) The number of cases to be filled in Item No. III-A (Number of Cases Decided or Resolved) under Columns 1 to 8 are the respective sum totals of the cases decided or resolved after trial on the merits as indicated in Item No. III-A-1 plus the cases resolved or dismissed through other dispositions such as compromise agreement of parties and judgment on the pleadings appearing in Item No. III-A-2, and the number of criminal complaints resolved or dismissed after conducting the preliminary investigation as shown in Item No. III-A-3 (for some municipal judges). For example: the figure to be entered under Column 1 of Item No. III-A is the sum total of the cases of Item Nos. III-A-2 and III-A-3, same Column. Observing the guidelines set forth in Note No.1, indicate the subtotal of the number of decided or resolved cases under Column 9.

(b) Fill in Columns 1 to 8 of Item No. III-B (Number of Cases Archived) and Item No. III-C (Number of Cases Transferred to Other Salas or Branches), and then indicate the respective subtotals thereof under Column 9. The number of cases to be filled in the said columns are the corresponding sums of archived cases and cases transferred to other salas or branches due to inhibition or change of venue. The guidelines set forth in Note No. 1 should be followed.

(c) Fill in Columns 1 to 8 of Item No. III (Total Number of Cases Deducted) by summing up all the cases under the respective columns of Item Nos. III-A, III-B and III-C, and then indicate the GRAND TOTAL thereof under Column 9. For example: the figure to be entered under Column I of Item III is the sum total of the cases of Item Nos. III-A, III-B and III-C, same Column. The guidelines set forth in Note No.1 should be observed.

- In obtaining the number of cases under Columns 1 to 8 of Item No. IV (Number of Cases Pending at the End of the Month), subtract the cases under the Columns of Item No. III from the sum of the cases under the corresponding Columns of Item No. I and Item No. II. Following the guidelines indicated in Note No.1, indicate the GRAND TOTAL thereof under Column 9.

N.B.: To check the correctness of the GRAND TOTAL of pending cases at the end of the month appearing in Item No. IV under Column 9, ADD the number of cases under the same Column of Item No. I to the number of cases in Item No. II. SUBTRACT the number of cases under Column 9 of Item No. III from the sum of the cases in Item No. I and Item No. II. The difference must be the same as the number of cases appearing under Column 9 of Item No. IV.

- Fill in Item No. V (Number of Cases with Proceedings Suspended) if at the end of the month there are cases wherein the proceedings were suspended due to petition for review on certiorari, petition for reinvestigation, prejudicial question, mental examination or rehabilitation of an accused, and the like. Include all cases which were suspended prior to the month being reported, but these cases should not be deducted from the total cases pending at the end of the month.

- In filling up Item No. VI (List of Cases Submitted for Decision But Not Yet Decided at the End of the Month) where all the data needed must be indicated, include all cases with unresolved motions which may determine the disposition of the cases, e.g., Motion to Dismiss on Demurrer to Evidence. Patent non-indication of undecided

cases or unresolved motions is tantamount to falsification of official document.

- AGING OF PENDING CASES (Item No. XI) refers to the period the case has been pending from the time of its filing or raffling up to the end of the month being reported. The total pending cases should tally with the GRAND TOTAL of cases indicated in Item No. IV under Column 9.

- Item Nos. VII, VIII, IX, X, XII, XIII and XIV are self-explanatory.

- The revised SC Form No.1 must be subscribed and sworn to by the Clerk of Court, Branch Clerk of Court or Officer-in-Charge, as the case may be, before the Executive Judge or Vice-Executive Judge, or, in case of unavailability of both, before the Presiding Judge of the station nearest to his/her court. The Presiding Judge or Acting Presiding Judge shall certify the same as correct.

- Semestral inventory of cases

b.1. Rules

- All Presiding Judges of trial courts must, upon assumption of office, and every semester thereafter on June 30th and December 31st of every year conduct a physical inventory of their dockets for the purpose of determining the actual number of cases pending in their salas.[441]

- An inventory shall be prepared to indicate the cases pending trial, the cases submitted for decision and the cases that have been archived.[442]

- The Presiding Judge and the Clerk of Court shall initial the Records or Rollos of each case to indicate the date of actual inventory. The inventory shall include a list of cases submitted for decision, indicating the title and the case number and the date of filing of said case. An updated inventory is to be submitted to the Supreme Court every six (6) months thereafter.[443]

b.2. Guidelines and instructions[444]

- Every Trial Judge and his/her Clerk of Court/Branch Clerk of Court shall submit not later than the last week of February and the last week of August of each year a tabulation of all pending cases which shall indicate on a horizontal column the following data:

(a) Case Number

(b) Case Title

(c) Nature of case

(d) Date Filed/Raffled

(e) Date of Pre-trial (in civil cases) or Arraignment (in criminal cases)

(f) Date of initial hearing Last Trial or Court Action Taken and Date thereof

(h) Date Submitted for Decision

- The docket inventory shall end with a joint certification by the Trial Judge and his/her Clerk of Court or Branch Clerk of Court that they have personally undertaken an inventory of the pending cases in his/her Court; that they have examined each case record and initialed the last page thereof. The actual inclusive dates when the inventory was conducted shall be indicated in the said certification.

- Please refer to the Tabulation and Joint Certification Form reproduced herein.

- Penalties

Willful non-compliance with the circular shall constitute serious misconduct and shall warrant imposition of the appropriate penalties. The Office of the Court Administrator shall report to the Supreme Court non-compliance with the circular within 30 days from the expiration of the period for compliance.

b.3. Trial Judges are authorized to devote one week of each semester to conduct semestral inventory and trials need not be scheduled on the said period.[445]

- List of cases filed/raffled, disposed, archived, transferred/re-raffled and with suspended proceedings[446]

All Clerks of Court and Branch Clerks of Court are hereby enjoined to submit the following monthly reports effective December 2000:

c.1. List of newly filed or raffled cases, revived or reinstated cases, or cases transferred or re-raffled from other salas.

c.2 List of decided or resolved cases after trial on the merits or by compromise agreement, plea of guilt, and the like; and/or resolved complaints after preliminary investigation (for the first level courts);

c.3. List of archived cases (stating the reason/s for archiving the case);

c.4. List of cases transferred or re-raffled to other salas; and

c.5. List of cases with suspended proceedings (stating the reason/s for such suspension).

The following data shall be indicated in each of the separate listings: case number; title of case; nature of case; date filed, revived or reinstated, or transferred or re-raffled from other salas; and date decided or resolved, archived, transferred or re-raffled to other salas, or when proceedings were suspended.

To facilitate the processing and analysis thereof, the aforesaid lists shall be attached to the corresponding Monthly Reports of Cases (Rev. SC Form No.1).

- Inventory of criminal cases and status report of cases involving detention prisoners[447]

All trial judges of courts of the first and second levels are enjoined to:

d.1. Conduct an accurate inventory of all criminal cases in their courts indicating therein for each case (a) the crime charged; (b) the possible maximum imprisonment for such crime; (c) the dates the information or complaint was filed; (d) whether the accused is bonded or detained; (e) if accused is detained, the place of detention and the date the detention commenced; (f) the date of the arraignment; and (g) the current status of the case; and

d.2. Direct the wardens of jails or detention centers where the accused in the aforementioned cases are detained to submit status reports thereon indicating (1) whether the accused is serving his sentence or being merely preventively imprisoned, (2) if serving his sentence: the title of the case; the date the judgment was promulgated and the date he started serving his sentence; and (3) if merely under preventive imprisonment: the title of the case, the crime for which he is detained, and the date he was committed for preventive imprisonment.

d.3. Order the release from detention of any accused who is already entitled to such release under the last paragraph of Article 29 of the Rev. Penal Code, or who has already served his sentence, as the case may be, unless the release may not be warranted by reason of any other lawful ground or cause.

- Performance rating of personnel (SC Circular dated September 20, 1989)

- Statement of Assets and Liabilities (Adm. Order No.1 s, 1954, Pres. of the Philippines; Pres. Decree No. 1288,

as amended by Rep. Act No. 6713)

Filing of Statement of Assets and Liabilities with the Office of the Clerk of Court is equivalent to filing with the Office of the Court Administrator.

- Inventory of properties (Adm. Circular No. 10-96 dated September 20, 1996 and Circular No. 37-2002 dated March 15, 2002)

2.2.4.2. Other Reports

- To Bureau of Fisheries and Aquatic Resources

Clerks of Court should furnish the Bureau of Fisheries and Aquatic Resources with true copies of Informations, Complaints and Decisions in all cases, of violation of the Fisheries Act, filed with, tried and decided in their courts.[448]

- To Bureau of Immigration/Department of Foreign Affairs

b.1. Placing number of Alien Certificate of Registration in the Information and Decision in criminal cases affecting aliens

All Judges, Clerks of Court, and Provincial and City Prosecutor should place the number of the Alien Certification of Registration in the Information and Decision in criminal cases whenever aliens are the accused to facilitate possible deportation proceedings against them. Any alien without certificate of registration shall be reported to the Bureau of Immigration through the Department of Justice, giving the alien's name and other personal circumstances.[449]

b.2. Pending cases affecting aliens

Clerks of Court are required to furnish the Bureau of Immigration, from time to time, with a list of aliens who have pending criminal or civil complaints in their respective jurisdictions, stating therein the personal circumstances of the aliens concerned and the offenses with which they stand charged.

b.3. Terminated cases affecting aliens

In cases against aliens or subjects of foreign powers which have already been terminated, the Bureau of Immigration should be furnished with the following:

- In criminal cases, with a copy of information, (b) decision, (c) commitment order if alien is sentenced to serve a prison term and (d) official receipt showing payment of the fine imposed.

- In civil cases, where the alien defendant has failed or refused to comply with the judgment, with a copy of (a) the complaint, (b) answer, (c) decision, (d) writ of execution, and (e) sheriff's return showing that defendant failed to satisfy the judgment.

The Bureau of Immigration should also be furnished with copies of such other pleadings and orders which may help it in determining whether a citizen or subject of a foreign country has become an "undesirable alien" and, therefore, subject to deportation.[450]

b.4. Guidelines in the issuance of hold-departure orders [451]

- Hold-departure orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts;

- The Regional Trial Courts issuing the hold-departure order shall furnish the Department of Foreign Affairs (DFA) and the Bureau of Immigration (BI) of the Department of Justice with a copy each of the hold-departure order issued within twenty-four (24) hours from the time of issuance and through the fastest available means of transmittal;
- The hold-departure order shall contain the following information:
 - The complete name (including the middle name), the date and place of birth and the place of last residence of the person against whom a hold-departure order has been issued or whose departure from the country has been enjoined;
 - The complete title and the docket number of the case in which the hold-departure order was issued;
 - The specific nature of the case;
 - The date of the hold-departure order.

If available, a recent photograph of the person against whom a hold-departure order has been issued or whose departure from the country has been enjoined should also be included.

- Whenever (1) the accused has been acquitted; or (2) the case has been dismissed, the judgment of acquittal or the order of dismissal shall include therein the cancellation of the hold-departure order issued. The Courts concerned shall furnish the Department of Foreign Affairs and the Bureau of Immigration with a copy each of the judgment of acquittal promulgated or the order of dismissal issued within twenty-four (24) hours from the time of promulgation/issuance and likewise through the fastest available means of transmittal.

All Regional Trial Courts which have furnished the Department of Foreign Affairs with their respective lists of active hold-departure orders are hereby directed to conduct an inventory of the hold-departure orders included in the said lists and inform the government agencies concerned of the status of the orders involved.

b.5. Information on status of cases wherein hold-departure orders had been issued[452]

The Clerks of Court of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts should furnish information on the hold-departure orders issued by their respective courts prior to Circular No. 39-97 dated June 19, 1997.

Information sent to the Bureau of Immigration should include the complete name (including the middle name) of the person subject of the hold-departure order, the complete title and the docket number of the criminal case in which the said hold-departure order was issued and the status of the said case as of the most recent date. Should there be any order issued by the court lifting the hold-departure order, a copy thereof shall also be furnished the Bureau of Immigration.

Information should be sent to the following:

The Commissioner
Bureau of Immigration
Magallanes Drive, Intramuros
Manila

b.6. All Judges are hereby directed to furnish the Department of Foreign Affairs with the prepared list of all active and/or unrevoked hold-departure orders and/or decisions within 24 hours from the issuance thereof.[453]

- To Bureau of Corrections

All Clerks of Court of the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts are directed to formally inform the Bureau of Corrections, Department of Justice, of all pending cases and/or appeals made in cases involving prisoners detained at the New Bilibid Prisons and to furnish the Board of Pardons and Parole with certified true copies of the complaint or information, the decisions rendered by the trial court or the appellate court, in case of appeal, together with the order of commitment to prison in all cases of conviction and appeals without bail. In case an appeal is filed after the commitment order has been forwarded to the New Bilibid Prisons, the Director of Corrections should be informed of the fact immediately by the Clerk of Court concerned. The information and the documents should be transmitted to the aforementioned offices within a period of fifteen (15) days from the date of the promulgation of the decision for purposes of completing and updating the results of the prisoners involved in such cases.[454]

- To Department of Trade and Industry

Clerks of Court should furnish the Bureau of Commerce (Department of Trade and Industry) with certified true copies of decisions rendered in their courts involving Republic Act No. 1180 entitled "An Act to Regulate the Retail Business." [455]

- To National Bureau of Investigation

All Clerks of Court of Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts are directed to furnish the National Bureau of Investigation with copies of all decisions in criminal cases rendered by their respective courts, with personal circumstances as complete as possible of the persons involved[456] regardless of whether said decisions are for conviction or for acquittal of the accused, except as otherwise provided by law. [457]

- To Department of Agrarian Reforms

All Clerks of Court of the Regional Trial Courts are directed to furnish notices to the Department of Agrarian Reforms of all pending cadastral or land registration proceedings and those that may be filed in the future in the province or cities where the said settlement projects are located.[458]

- To Dangerous Drugs Board

All Clerks of Court of the Regional Trial Courts are directed to furnish the Dangerous Drugs Board with copies of all complaints involving violations of the Dangerous Drugs Act of 1972, as amended.[459]

- To Philippine Overseas Employment Administration

All Clerks of Court of the Regional Trial Courts are directed to submit to the Philippine Overseas Employment Administration all final orders and decisions in criminal cases involving illegal recruitment, copies of warrants of arrest against illegal recruiters who remain at-large or who jumped bail, and if available, a copy of the file photograph of the accused.[460]

- To Parole and Probation Officers

All Clerks of Court are advised to furnish probation officers having jurisdiction over the accused with copies of final decisions on convicted accused and their applications for probation, if any.

- To Department of Social Welfare and Development.

The Clerks of Court of the Regional Trial Court may, by authority of the Court, furnish the Social Services and Counselling Division of the Department of Social Welfare and Development with a copy of the disposition order

involving juveniles in conflict with the law.[461]

- To the Election Officer[462]

The Clerks of Court of Municipal/ Municipal Circuit/Metropolitan/Regional Trial Courts and the Sandiganbayan shall furnish the Election Officer of the city or municipal or municipality concerned at the end of each month, a certified list of persons with their addresses who are disqualified as follows:

"a) Any person who has been sentenced by final judgment to suffer imprisonment for not less than one (1) year, such disability not having been removed by plenary pardon or amnesty: Provided, however, That any person disqualified to vote under this paragraph shall automatically reacquire the right to vote upon expiration of five (5) years after service of sentence as certified by the clerks of courts of the Municipal/Municipal Circuit! Metropolitan/Regional Trial Courts and the Sandiganbayan."

2.2.5. Posting of Cases Submitted for Decision[463]

All Clerks of Court/Branch Clerks of Court shall cause to be posted at the end of each month the list of cases submitted for decision, at a conspicuous place on the door of the session hall to be available for inspection by representatives of the Supreme Court and interested parties. The list shall carry the case number only, together with the date of submission for decision. The list for the following month shall be updated by the deletion of the cases decided by the Judge, and inclusion of cases submitted for decision since the last posting.

A copy of the list shall be furnished the local chapter of the Integrated Bar of the Philippines of the city or province where the court is located. The Branch Clerk of Court shall certify compliance with the posting requirements.

F. SPECIAL FUNCTIONS OF CLERK OF COURT AS EX-OFFICIO SHERIFF

- ORIGIN OF OFFICE

The office of the sheriff is an ancient one. Historically, it dates back at least to the time of Alfred, King of England. During those times, the holder thereof was regarded as the chief executive officer and conservator of the peace in his shire or county. He was a county officer representing the executive or administrative power of the state within his county.[464]

- NATURE OF OFFICE

Sheriffs are ministerial officers. They are agents of the law and not agents of the parties, neither of the creditor nor of the purchaser at a sale conducted by him. It follows, therefore, that the sheriff can make no compromise in an execution sale.

In general, a sheriff is the proper officer to execute all writs returnable to the court, unless another is appointed, by special order, for the purpose. It is not his duty to decide on the truth or sufficiency of the processes committed to him for service.[465]

- QUALIFICATION STANDARDS

The qualifications for appointment to the position of sheriff are: 1) completion of two years of college education; 2) career service (sub-professional) first level eligibility; 3) two years of relevant experience; and 4) eight hours of relevant training.

All Clerks of Court of the Regional Trial Courts, Shari' a District Courts, Metropolitan Trial Courts and Municipal Trial Courts in Cities are ex-officio sheriffs within their territorial jurisdiction. Their qualifications are discussed in Sec. C (supra).

- FUNCTIONS AND DUTIES OF SHERIFF

4.1. Summons

Summons is a process requiring the defendant to answer within the time fixed by the Rules. A copy of the complaint and order for appointment of guardian ad litem, if any, shall be attached to the original and each copy of the summons.

4.1.1. By whom served

The summons may be served by the sheriff, his deputy, or other proper court officer, or for justifiable reasons by any suitable person authorized by the court issuing the summons.[466]

4.1.2. Return

When the service has been completed, the server shall, within five (5) days therefrom, serve a copy of the return, personally or by registered mail, to the plaintiff's counsel, and shall return the summons to the Clerk who issued it, accompanied by proof of service.[467]

4.1.3. Issuance of alias summons

If a summons is returned without being served on any or all of the defendants, the server shall serve a copy of the return on the plaintiff's counsel, stating the reasons for the failure of service, within five (5) days therefrom. In such a case, or if the summons has been lost, the Clerk, on demand of the plaintiff, may issue an alias summons.[468]

4.1.4. Service in person upon defendant

Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or if he refuses to receive and sign for it, by tendering it to him.[469]

4.1.5. Substituted service

If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in Sec. 6 of Rule 14, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.[470]

4.1.6. Service upon entity without juridical personality

When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon anyone of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was brought.[471]

4.1. 7. Service upon prisoners

When the defendant is a prisoner confined in a jailor institution, service shall be effected upon him by the officer

having the management of such jailor institution who is deemed deputized as a special sheriff for said purpose.[472]

4.1.8. Service upon minors and incompetents

When the defendant is a minor, insane or otherwise an incompetent, service shall be made upon him personally and on his legal guardian if he has one, or if none, upon his guardian ad litem whose appointment shall be applied for by the plaintiff. In the case of a minor, service may also be made on his father or mother.[473]

4.1.9. Service upon domestic private juridical entity

When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel.[474]

4.1.10. Service upon foreign private juridical entity

When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.[475]

4.1.11. Service upon public corporations

When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the Court may direct.[476]

4.1.12. Service upon defendant whose identity or whereabouts are unknown

In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the Court may order.[477]

4.1.13. Extraterritorial service

When the defendant does not reside and is not found in the Philippines; and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Sec. 6; or by publication in a newspaper of general circulation in such places and for such time as the Court may order, in which case a copy of the summons and order of the Court shall be sent by registered mail to the last known address of the defendant, or in any other manner the Court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.[478]

4.1.14. Residents temporarily out of the Philippines

When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under Sec. 15 of Rule 14.[479]

4.1.15. Proof of service

The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff or his deputy.[480]

4.2. Subpoena

Subpoena is a process directed to a person requiring him to attend and testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his deposition. It may also require him to bring any books, documents, or other things under his control, in which case it is called a subpoena duces tecum.

4.2.1. Service

Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served, tendering to him the fees for one day's attendance and the kilometrage allowed by the Rules, except that, when a subpoena is issued by or on behalf of the Republic of the Philippines or an officer or agency thereof, the tender need not be made. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. If the subpoena is duces tecum the reasonable cost of producing the books, documents or things demanded shall also be tendered.[481]

4.2.2. Compelling attendance

In case of failure of a witness to attend, the Court or Judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his deputy, to arrest the witness and bring him before the Court or officer where his attendance is required, and the cost of such warrant and seizure of such witness shall be paid by the witness if the Court issuing it shall determine that his failure to answer the subpoena was willful and without just excuse.

4.3. Execution of Judgment or Final Order

4.3.1. Issuance, form and contents of a writ of execution[482]

The writ of execution shall: (1) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, the case number and title, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to enforce the writ according to its terms, in the manner hereinafter provided:

4.3.1.1. If the execution be against the property of the judgment obligor, to satisfy the judgment, with interest, out of the real or personal property of such judgment obligor;

4.3.1.2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants, or trustees of the judgment obligor, to satisfy the judgment, with interest, out of such property;

4.3.1.3. If it be for the sale of real or personal property, to sell such property, describing it, and apply the proceeds in conformity with the judgment, the material parts of which shall be recited in the writ of execution;

4.3.1.4. If it be for the delivery of the possession of real or personal property, to deliver the possession of the same, describing it, to the party entitled thereto, and to satisfy any costs, damages, rents, or profits covered by the

judgment out of the personal property of the person against whom it was rendered, and if sufficient personal property cannot be found, then out of the real property; and

4.3.1.5. In all cases, the writ of execution shall specifically state the amount of the interest, costs, damages, rents, or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant.

4.3.2. Properties exempt from execution[483]

Except as otherwise expressly provided by law, the following property and no other, shall be exempt from execution:

4.3.2.1. The judgment obligor's family home as provided by law, or the homestead in which he resides, and land necessarily used in connection therewith;

4.3.2.2. Ordinary tools and implements personally used by him in his trade, employment or livelihood;

4.3.2.3. Three horses, or three cows, or three carabaos, or other beasts of burden, such as the judgment obligor may select, necessarily used by him in his ordinary occupation;

4.3.2.4. His necessary clothing and articles for ordinary personal use, excluding jewelry;

4.3.2.5. Household furniture and utensils necessary for housekeeping and used for that purpose by the judgment obligor and his family, such as the judgment obligor may select, of a value not exceeding one hundred thousand pesos;

4.3.2.6. Provisions for ordinary or family use sufficient for four months;

4.3.2.7. The professional libraries and equipment of judges, lawyers, physicians, pharmacists, dentists, engineers, surveyors, clergymen, teachers and other professionals not exceeding three hundred thousand pesos in value;

4.3.2.8. One fishing boat and accessories not exceeding the total value of one hundred thousand pesos owned by a fisherman and by the lawful use of which he earns his livelihood;

4.3.2.9. So much of the salaries, wages, or earnings of the judgment obligor for his personal services within four months preceding the levy as are necessary for the support of his family;

4.3.2.10. Lettered gravestones;

4.3.2.11. Monies, benefits, privileges, or annuities accruing or in any manner growing out of any insurance;

4.3.2.12. The right to receive legal support, or money or property obtained as such support, or any pension or gratuity from the Government; and

4.3.2.13. Properties especially exempted by law.

But no article or species of property mentioned above shall be exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage thereon.

4.3.3. Execution of judgments for money[484]

4.3.3.1. Immediate payment on demand

The officer shall enforce an execution of judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor

shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the Clerk of Court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the Clerk of Court of the Court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The Clerk of said Court shall thereafter arrange for the remittance of the deposit to the account of the Court that issued the writ whose Clerk of Court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the Clerk of Court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

4.3.3.2 Satisfaction by levy

If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal property or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor other than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

4.3.3.3. Garnishment of debts and credits^[485]

The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash or certified bank check issued in the name of the judgment obligee, shall be

delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the court.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the judgment obligee.

The executing sheriff shall observe the same procedure under paragraph (a) of Sec. 9 of Rule 39 with respect to delivery of payment to the judgment obligee.

4.3.4. Execution of judgments for specific act[486]

4.3.4.1. Conveyance, delivery of deeds or other specific acts; vesting title

If a judgment directs a party to execute a conveyance of land or personal property, or to deliver deeds or other documents, or to perform any other specific act in connection therewith, and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law.

4.3.4.2. Sale of real or personal property

If the judgment be for the sale of real or personal property, to sell such property, describing it, and apply the proceeds in conformity with the judgment.

4.3.4.3. Delivery or restitution of real property

The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

4.3.4.4. Removal of improvements on property subject of execution

When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements, except upon special order of the court issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court.

4.3.4.5. Delivery of personal property

In judgments for the delivery of personal property, the officer shall take possession of the same and forthwith deliver it to the party entitled thereto and satisfy any judgment for money as therein provided.

4.3.5. Execution of special judgments[487]

When a judgment requires the performance of any act by the judgment obligor himself, a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against the

same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment.

4.3.6. Return of writ of execution

The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.[488]

4.3.7. Notice of sale of property on execution[489]

Before the sale of real property on execution, notice thereof must be given as follows:

4.3.7.1. In case of perishable property, by posting written notice of the time and place of the sale in three (3) public places, preferably in conspicuous areas of the municipal or city hall, post office and public market in the municipality or city where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property;

4.3.7.2. In case of other personal property, by posting a similar notice in the three (3) public places above-mentioned for not less than five (5) days;

4.3.7.3. In case of real property, by posting for twenty (20) days in the three public places above-mentioned a similar notice particularly describing the property and stating where the property is to be sold, and if the assessed value of the property exceeds fifty thousand (P50,000.00) pesos, by publishing a copy of the notice once a week for two consecutive weeks in one newspaper selected by raffle, whether in English, Filipino or any other major regional language published, edited and circulated or, in the absence thereof, having general circulation in the province or city;

4.3.7.4. In all cases, written notice of the sale shall be given to the judgment obligor, at least three (3) days before the sale, except as provided in paragraph (a) of Sec. 15 of Rule 39 where notice shall be given at any time before the sale, in the same manner as personal service of pleadings and other papers as provided by Sec. 6 of Rule 13.

The notice shall specify the place, date and exact time of the sale which should not be earlier than nine o'clock in the morning and not later than two o'clock in the afternoon. The place of the sale may be agreed upon by the parties. In the absence of such agreement, the sale of real property or personal property not capable of manual delivery shall be held in the office of the Clerk of Court of the Regional Trial Court or the Municipal Trial Court which issued the writ or which was designated by the appellate court. In the case of personal property capable of manual delivery, the sale shall be held in the place where the property is located.

4.3.8. Proceedings where property claimed by third person[490]

If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied

on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.

4.3.9. Penalty for selling without notice, or removing or defacing notice[491]

An officer selling without the required notice shall be liable to pay punitive damages in the amount of five thousand (P5,000.00) pesos to any person injured thereby, in addition to his actual damages, both to be recovered by motion in the same action; and a person willfully removing or defacing the notice posted, if done before sale, or before the satisfaction of the judgment if it be satisfied before the sale, shall be liable to pay five thousand (P5,000.00) pesos to any person injured by reason thereof, in addition to his actual damages, to be recovered by motion in the same action.

4.3.10. No sale if judgment and costs paid[492]

At any time before the sale of property on execution, the judgment obligor may prevent the sale by paying the amount required by the execution and the costs that have been incurred therein.

4.3.11. How property sold on execution; who may direct manner and order of sale

All sales of property under execution must be made at public auction, to the highest bidder, to start at the exact time fixed in the notice. After sufficient property has been sold to satisfy the execution, no more shall be sold and any excess property or proceeds of the sale shall be promptly delivered to the judgment obligor or his authorized representative, unless otherwise directed by the judgment or order of the Court. When the sale is of real property, consisting of several known lots, they must be sold separately; or when a portion of such property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within the view of those attending the same and in such parcels as are likely to bring the highest price. The judgment obligor, if present at the sale, may direct the order in which the property, real or personal, shall be sold, when such property consists of several known lots or parcels which can be sold to advantage separately. Neither the officer conducting the execution sale, nor his deputies, can become a purchaser, nor be interested directly or indirectly in any purchase at such sale.[493]

4.3.12. Refusal of purchaser to pay

If a purchaser refuses to pay the amount bid by him for property struck off to him at a sale under execution, the officer may again sell the property to the highest bidder and shall not be responsible for any loss occasioned thereby; but the court may order the refusing purchaser to pay into the court the amount of such loss, with costs, and may punish him for contempt if he disobeys the order. The amount of such payment shall be for the benefit of the person entitled to the proceeds of the execution, unless the execution has been fully satisfied, in which event such proceeds shall be for the benefit of the judgment obligor. The officer may thereafter reject any subsequent bid of such purchaser who refuses to pay.[494]

4.3.13. Judgment obligee as purchaser

When the purchaser is the judgment obligee, and no third-party claim has been filed, he need not pay the amount of the bid if it does not exceed the amount of his judgment. If it does, he shall pay only the excess.[495]

4.3.14. Adjournment of sale

By written consent of the judgment obligor and obligee, or their duly authorized representatives, the officer may adjourn the sale to any date and time agreed upon by them. Without such agreement, he may adjourn the sale from day to day if it becomes necessary to do so for lack of time to complete the sale on the day fixed in the notice or the day to which it was adjourned.[496]

4.3.15. Conveyance to purchaser of personal property capable of manual delivery

When the purchaser of any personal property, capable of manual delivery, pays the purchase price, the officer making the sale must deliver the property to the purchaser and, if desired, execute and deliver to him a certificate of sale. The sale conveys to the purchaser all the rights which the judgment obligor had in such property as of the date of the levy on execution or preliminary attachment.[497]

4.3.16. Conveyance to purchaser of personal property not capable of manual delivery

When the purchaser of any personal property, not capable of manual delivery, pays the purchase price, the officer making the sale must execute and deliver to the purchaser a certificate of sale. Such certificate of sale conveys to the purchaser all the rights which the judgment obligor had in such property as of the date of the levy on execution or preliminary attachment.[498]

4.3.17. Conveyance of real property; certificate thereof given to purchaser and filed with registry of deeds[499]

Upon a sale of real property, the officer must give to the purchaser a certificate of sale containing:

4.3.17.1. A particular description of the real property sold;

4.3.17.2. The price paid for each distinct lot or parcel;

4.3.17.3. The whole price paid by him; and

4.3.17.4. A statement that the right of redemption expires one (1) year from the date of the registration of the certificate of sale.

Such certificate must be registered in the registry of deeds of the place where the property is situated.

4.3.18. Certificate of sale where property claimed by third person

When a property sold by virtue of a writ of execution has been claimed by a third person, the certificate of sale to be issued by the sheriff shall make express mention of the existence of the third-party claim.[500]

4.3.19. Who may redeem real property sold[501]

Real property sold, or any part thereof sold separately, may be redeemed by the following persons:

4.3.19.1. The judgment obligor, or his successor in interest in the whole or any part of the property;

4.3.19.2. A creditor having a lien by virtue of an attachment, judgment or mortgage on the property sold, or on some part thereof, subsequent to the lien under which the property was sold. Such redeeming creditor is termed a redemptioner.

4.3.20. Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed[502]

The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after the purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two per centum thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two per centum thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own, with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registry of deeds of the place, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemptioner was made, notice thereof must in like manner be given to the officer and filed with the registry of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes or liens.

4.3.21. Effect of redemption by judgment obligor, and a certificate of sale to be delivered and recorded thereupon; to whom payments on redemption made

If the judgment obligor redeems, he must make the same payments as are required to effect a redemption by a redemptioner, whereupon, no further redemption shall be allowed and he is restored to his estate. The person to whom the redemption payment is made must execute and deliver to him a certificate of redemption acknowledged before a notary public or other officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the registry of deeds of the place in which the property is situated, and the registrar of deeds must note the record thereof on the margin of the record of the certificate of sale. The payments may be made to the purchaser or redemptioner, or for him to the officer who made the sale.[503]

4.3.22. Proof required of redemptioner

A redemptioner must produce to the officer, or person from whom he seeks to redeem, and serve with his notice to the officer a copy of the judgment or final order under which he claims the right to redeem, certified by the Clerk of the Court wherein the judgment or final order is entered; or if he redeems upon a mortgage or other lien, a memorandum of the record thereof, certified by the registrar of deeds or an original or certified copy of any assignment necessary to establish his claim; and an affidavit executed by him or his agent, showing the amount then actually due on the lien. [504]

4.3.23. 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 have conveyance and possession of the property; or if so redeemed whenever sixty (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 (1) 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 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.[505]

4.3.24. Obligor may pay execution against obligee

After a writ of execution against the property has been issued, a person indebted to the judgment obligor may pay to the sheriff holding the writ of execution the amount of his debt or so much thereof as may be necessary to satisfy the judgment in the manner prescribed in Sec. 9 of Rule 39 and the sheriff's receipt shall be a sufficient discharge for the amount so paid or directed to be credited by the judgment obligee on the execution.[506]

4.3.25. Sale of ascertainable interest of judgment obligor in real estate[507]

If it appears that the judgment obligor has an interest in real estate in the place in which proceedings are had, as mortgagor or mortgagee or otherwise, and his interest therein can be ascertained without controversy, the receiver may be ordered to sell and convey such real estate or the interest of the obligor therein; and such sale shall be conducted in all respects in the same manner as is provided for the sale of real estate upon execution, and the proceedings thereon shall be approved by the court before the execution of the deed.

4.3.26. Proceedings when indebtedness denied or another person claims the property

If it appears that a person or corporation, alleged to have property of the judgment obligor or to be indebted to him, claims an interest in the property adverse to him or denies the debt, the court may authorize, by an order made to that effect, the judgment obligee to institute an action against such person or corporation for the recovery of such interest or debt, forbid a transfer or other disposition of such interest or debt within one hundred twenty (120) days from notice of the order, and may punish disobedience of such order as for contempt. Such order may be modified or vacated at any time by the court which issued it, or by the court in which the action is brought, upon such terms as may be just.[508]

4.3.27. Entry of satisfaction of judgment by Clerk of Court

Satisfaction of a judgment shall be entered by the Clerk of Court in the court docket, and in the execution book, upon the return of a writ of execution showing the full satisfaction of the judgment, or upon the filing of an admission to the satisfaction of the judgment executed and acknowledged in the same manner as a conveyance of real property by the judgment obligee or by his counsel unless a revocation of his authority is filed, or upon the endorsement of such admission by the judgment obligee or his counsel on the face of the record of the judgment.[509]

4.3.28. Entry of satisfaction with or without admission

Whenever a judgment is satisfied in fact, or otherwise than upon an execution, on demand of the judgment obligor, the judgment obligee or his counsel must execute and acknowledge, or indorse, an admission of the satisfaction as provided in Sec. 44 of Rule 39, and after notice and upon motion, the court may order either the judgment obligee or his counsel to do so or may order the entry of satisfaction to be made without such

admission.[510]

- WRIT OF ATTACHMENT

Attachment is a provisional remedy by which the property of the adverse party is taken into custody of law, either at the commencement of the action or at any time before entry of judgment, as security for the satisfaction of any judgment that the plaintiff or any proper party may recover.[511]

5.1. Issuance and contents of order

An order of attachment may be issued either ex parte or upon motion with notice and hearing by the court in which the action is pending, or by the Court of Appeals or the Supreme Court, and must require the sheriff of the court to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless such party makes deposit or gives a bond as provided in Rule 57 in an amount equal to that fixed in the order, which may be the amount sufficient to satisfy the applicant's demand or the value of the property to be attached as stated by the applicant, exclusive of costs. Several writs may be issued at the same time to the sheriffs of the courts of different judicial regions.[512]

5.2. Manner of attaching property[513]

The sheriff enforcing the writ shall without delay and with all reasonable diligence attach, to await judgment and execution in the action, only so much of the property in the Philippines of the party against whom the writ is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless the former makes a deposit with the court from which the writ is issued, or gives a counter-bond executed to the applicant, in an amount equal to the bond fixed by the court in the order of attachment or to the value of the property to be attached, exclusive of costs. No levy on attachment pursuant to the writ issued under Sec. 2 of Rule 57 shall be enforced unless it is preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint, the application for attachment, the applicant's affidavit and bond, and the order and writ of attachment, on the defendant within the Philippines.

The requirement of prior or contemporaneous service of summons shall not apply where the summons could not be served personally or by substituted service despite diligent efforts, or the defendant is a resident of the Philippines temporarily absent therefrom, or the defendant is a non-resident of the Philippines, or the action is one in rem or quasi In rem.

5.3. Sheriff's return

After enforcing the writ, the sheriff must likewise without delay make a return thereon to the court from which the writ issued, with a full statement of his proceedings under the writ and a complete inventory of the property attached, together with any counter-bond given by the party against whom attachment is issued, and serve copies thereof on the applicant.[514]

5.4. Attachment of real and personal property; recording thereof[515]]

Real and personal property shall be attached by the sheriff executing the writ in the following manner:

5.4.1. Real property, or growing crops thereon, or any interest therein, standing upon the record of the registry of deeds of the province in the name of the party against whom attachment is issued, or not appearing at all upon such records, or belonging to the party against whom attachment is issued and held by another person, or standing on the records of the registry of deeds in the name of any other person, by filing with the registry of deeds, a copy

of the order, together with a description of the property attached, and a notice that it is attached, or that such real property and any interest therein held by or standing in the name of such other person are attached, and by leaving a copy of such order, description, and notice with the occupant of the property, if any, or with such other person or his agent if found within the province. Where the property has been brought under the operation of either the Land Registration Act or the Property Registration Decree, the notice shall contain a reference to the number of the certificate of title, the volume and page in the registration book where the certificate is registered, and the registered owner or owners thereof

The registrar of deeds must index attachments filed under Sec. 7 of Rule 57 in the names of the applicant, the adverse party, or the person by whom the property is held or in whose name it stands in the records. If the attachment is not claimed on the entire area of the land covered by the certificate of title, a description sufficiently accurate for the identification of the land or interest to be affected shall be included in the registration of such attachment.

5.4.2. Personal property capable of manual delivery, by taking and safely keeping it in his custody, after issuing the corresponding receipt therefor;

5.4.3. Stocks or shares, or an interest in stocks or shares, of any corporation or company, by leaving with the president or managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the party against whom the attachment is issued is attached in pursuance of such writ;

5.4.4. Debts and credits, including bank deposits, financial interest, royalties, commissions and other personal property not capable of manual delivery, by leaving with the person owing such debts, or having in his possession or under his control, such credits or other personal property, or with his agent, a copy of the writ, and notice that the debts owing by him to party against whom attachment is issued, and the credits and other personal property in his possession, or under his control, belonging to said party, are attached in pursuance of such writ;

5.4.5. The interest of the party against whom attachment is issued in property belonging to the estate of the decedent, whether as heir, legatee, or devisee, by serving the executor or administrator or other personal representative of the decedent with a copy of the writ and notice that said interest is attached. A copy of said writ of attachment and of said notice shall also be filed in the Office of the Clerk of Court in which said estate is being settled and served upon the heir, legatee or devisee concerned.

If the property sought to be attached is in custodia legis, a copy of the writ of attachment shall be filed with the proper court or quasi-judicial agency, and notice of the attachment served upon the custodian of such property.

5.5. Effect of attachment of debts, credits and all other similar personal property

All persons having in their possession or under their control any credits or other similar personal property belonging to the party against whom attachment is issued, or owing any debts to him, at the time of the service upon them of the copy of the writ of attachment and notice of attachment, shall be liable to the applicant for the amount of such credits, debts or other similar personal property, until the attachment is discharged, or any judgment recovered by him is satisfied, unless such property is delivered or transferred, or such debts are paid, to the Clerk, sheriff, or other proper officer of the court issuing the attachment.[516]

5.6. Effect of attachment of interest in property belonging to the estate of a decedent

The attachment of the interest of an heir, legatee, or devisee in the property belonging to the estate of a decedent shall not impair the powers of the executor, administrator, or other personal representative of the decedent over such property for the purpose of administration. Such personal representative, however, shall report the

attachment to the court when any petition for distribution is filed, and in the order made upon such petition. Distribution may be awarded to such heir, legatee, or devisee, but the property attached shall be ordered delivered to the sheriff making the levy, subject to the claim of such heir, legatee, or devisee, or any person claiming under him.[517]

5.7. Examination of party whose property is attached and the persons indebted to him or controlling his property; delivery of property to sheriff

Any person owing debts to the party whose property is attached or having in his possession or under his control any credit or other personal property belonging to such party, may be required to attend before the court in which the action is pending, or before a commissioner appointed by the court, and be examined on oath respecting the same. The party whose property is attached may also be required to attend for the purpose of giving information respecting his property, and may be examined on oath. The court may, after such examination, order personal property capable of manual delivery belonging to him, in the possession of the person so required to attend before the court, to be delivered to the Clerk of the Court or sheriff on such terms as may be just, having reference to any lien thereon or claim against the same, to await the judgment in the action.[518]

5.8. When attached property may be sold after levy on attachment and before entry of judgment

Whenever it shall be made to appear to the court in which the action is pending, upon hearing with notice to both parties, that the property attached is perishable, or that the interests of all the parties to the action will be subserved by the sale thereof, the Court may order such property to be sold at public auction in such manner as it may direct, and the proceeds of such sale to be deposited in court to abide the judgment in the action.[519]

5.9. Discharge of attachment upon giving counter-bond

After a writ of attachment has been enforced, the party whose property has been attached, or the person appearing on his behalf, may move for the discharge of the attachment wholly or in part on the security given. The court shall, after due notice and hearing, order the discharge of the attachment if the movant makes a cash deposit, or files a counter-bond executed to the attaching party with the Clerk of the Court where the application is made, in an amount equal to that fixed by the court in the order of attachment, exclusive of costs. But if the attachment is sought to be discharged with respect to a particular property, the counter-bond shall be equal to the value of that property as determined by the court. In either case, the cash deposit or the counter-bond shall secure the payment of any judgment that the attaching party may recover in the action. A notice of the deposit shall forthwith be served on the attaching party. Upon the discharge of an attachment in accordance with the provisions of Sec. 12 of Rule 57, the property attached, or the proceeds of any sale thereof, shall be delivered to the party making the deposit or giving the counter-bond, or to the person appearing on his behalf, the deposit or counter-bond aforesaid standing in place of the property so released. Should such counter-bond for any reason be found to be or become insufficient, and the party furnishing the same fail to file an additional counter-bond, the attaching party may apply for a new order of attachment.[520]

5.10. Discharge of attachment on other grounds

The party whose property has been ordered attached may file a motion with the court in which the action is pending, before or after levy or even after the release of the attached property, for an order to set aside or discharge the attachment on the ground that the same was improperly or irregularly issued or enforced, or that the bond is insufficient. If the attachment is excessive, the discharge shall be limited to the excess. If the motion be made on affidavits on the part of the movant but not otherwise, the attaching party may oppose the motion by counter-affidavits or other evidence in addition to that on which the attachment was made. After due notice and

hearing, the court shall order the setting aside or the corresponding discharge of the attachment if it appears that it was improperly or irregularly issued or enforced, or that the bond is insufficient, or that the attachment is excessive, and the defect is not cured forthwith.[521]

5.11. Proceedings where property claimed by third person[522]

If the property attached is claimed by any person other than the party against whom attachment had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds of such right or title, and serves such affidavit upon the sheriff while the latter has possession of the attached property, and a copy thereof upon the attaching party, the sheriff shall not be bound to keep the property under attachment, unless the attaching party or his agent, on demand of the sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied upon. In case of disagreement as to such value, the same shall be decided by the court issuing the writ of attachment. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The sheriff shall not be liable for damages for the taking or keeping of such property, to any such third-party claimant, if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the attaching party from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of attachment is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the attachment, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of the funds to be appropriated for the purpose.

5.12 Satisfaction of judgment out of property attached; return of sheriff[523]

If judgment be recovered by the attaching party and execution issue thereon, the sheriff may cause the judgment to be satisfied out of the property attached, if it be sufficient for that purpose in the following manner:

5.12.1. By paying to the judgment obligee the proceeds of all sales of perishable or other property sold in pursuance of the order of the court, or so much as shall be necessary to satisfy the judgment;

5.12.2. If any balance remains due, by selling so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in the sheriff's hands, or in those of the Clerk of the Court;

5.12.3. By collecting from all persons having in their possession credits belonging to the judgment obligor, or owing debts to the latter at the time of the attachment of such credits or debts, the amount of such credits and debts as determined by the court in the action, and stated in the judgment, and paying the proceeds of such collection over to the judgment obligee.

The sheriff shall forthwith make a return in writing to the court of his proceedings under Sec. 15 of Rule 57 and furnish the parties with copies thereof.

5.13. Balance due collected upon an execution; excess delivered to judgment obligor

If after realizing upon all the property attached, including the proceeds of any debts or credits collected, and applying the proceeds to the satisfaction of the judgment, less the expenses of proceedings upon the judgment, any balance shall remain due, the sheriff must proceed to collect such balance as upon ordinary execution. Whenever the judgment shall have been paid, the sheriff, upon reasonable demand, must return to the judgment

obligor the attached property remaining in his hands, and any proceeds of the sale of the property attached not applied to the judgment.[524]

5.14. Disposition of money deposited

Where the party against whom attachment had been issued has deposited money instead of giving counter-bond, it shall be applied under the direction of the court to the satisfaction of any judgment rendered in favor of the attaching party, and after satisfying the judgment, the balance shall be refunded to the depositor or his assignee. If the judgment is in favor of the party against whom attachment was issued, the whole sum deposited must be refunded to him or his assignee.[525]

5.15. Disposition of attached property where judgment is for party against whom attachment was issued

If judgment be rendered against the attaching party, all the proceeds of sales and money collected or received by the sheriff, under the order of attachment, and all property attached remaining in any such officer's hands, shall be delivered to the party against whom attachment was issued, and the order of attachment discharged.[526]

- REPLEVIN

Replevin, as a provisional remedy, consists in the delivery of personal property by the adverse party to the applicant, who shall give a bond executed to the adverse party to assure the return of the property to the adverse party if such return be adjudged, and the payment to the adverse party of such sum as may be recovered from the applicant in the action.[527]

6.1. Duty of the sheriff

Upon receiving such order, the sheriff must serve a copy thereof on the adverse party, together with a copy of the application, affidavit and bond, and must forthwith take the property, if it be in the possession of the adverse party, or his agent, and retain it in his custody. If the property or any part thereof be concealed in a building or enclosure, the sheriff must demand its delivery, and if it be not delivered, he must cause the building or enclosure to be broken open and take the property into his possession. After the sheriff has taken possession of the property as herein provided, he must keep it in a secure place and shall be responsible for its delivery to the party entitled thereto upon receiving his fees and necessary expenses for taking and keeping the same.[528]

6.2. Return of property

If the adverse party objects to the sufficiency of the applicant's bond, or of the surety or sureties thereon, he cannot immediately require the return of the property, but if he does not so object, he may, at any time before the delivery of the property to the applicant, require the return thereof, by filing with the court where the action is pending a bond executed to the applicant, in double the value of the property as stated in the applicant's affidavit for the delivery thereof to the applicant, if such delivery be adjudged, and for the payment of such sum to him as may be recovered against the adverse party, and by serving a copy of such bond on the applicant.[529]

6.3. Disposition of property by sheriff

If within five (5) days after the taking of the property by the sheriff, the adverse party does not object to the sufficiency of the bond, or of the surety or sureties thereon; or if the adverse party so objects and the court affirms its approval of the applicant's bond or approves a new bond, or if the adverse party requires the return of the property but his bond is objected to and found insufficient and he does not forthwith file an approved bond, the property shall be delivered to the applicant. If for any reason the property is not delivered to the applicant, the sheriff must return it to the adverse party.[530]

6.4. Proceedings where property claimed by third person[531]

If the property taken is claimed by any person other than the party against whom the writ of replevin had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds therefor, and serves such affidavit upon the sheriff while the latter has possession of the property and a copy thereof upon the applicant, the sheriff shall not be bound to keep the property under replevin or deliver it to the applicant unless the applicant or his agent, on demand of said sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property under replevin as provided in Sec. 2 of Rule 60. In case of disagreement as to such value, the court shall determine the same. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The sheriff shall not be liable for damages, for the taking or keeping of such property, to any such third-party claimant if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the applicant from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of replevin is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the replevin, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasury out of the funds to be appropriated for the purpose.

6.5. Return of papers

The sheriff must file the order, with his proceedings indorsed thereon, with the Court within ten (10) days after taking the property mentioned therein.[532]

- CERTIORARI, PROHIBITION AND MANDAMUS

7.1. Order to comment

If the petition is sufficient in form and substance to justify such process, the Court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.[533]

7.2. Service and enforcement of order or judgment

A certified copy of the judgment rendered in accordance with Sec. 8 of Rule 65 shall be served upon the court, quasi-judicial agency, tribunal, corporation, board, officer or person concerned in such manner as the court may direct, and disobedience thereto shall be punished as contempt. An execution may issue for any damages or costs awarded in accordance with Sec. 1 of Rule 39.[534]

- EXPROPRIATION

8.1. Ascertainment of compensation[535]

Upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify the time within which their report shall be submitted to the court.

Copies of the order shall be served on the parties. Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall be resolved within thirty (30) days after all the commissioners shall have received copies of the objections.

- JUDICIAL FORECLOSURE OF REAL ESTATE MORTGAGE

9.1. Judgment on foreclosure for payment or sale

If upon the trial in such action, the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and other charges as approved by the court, and costs, and shall render judgment for the sum so found due and order that the same be paid to the court or to the judgment obligee within a period of not less than ninety (90) days nor more than one hundred twenty (120) days from the entry of judgment, and that in default of such payment the property shall be sold at public auction to satisfy the judgment.[536]

9.2. Sale of mortgaged property; effect[537]

When the defendant, after being directed to do so as provided in Sec. 2 of Rule 68, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure.

9.3. Disposition of proceeds of sale

The amount realized from the foreclosure sale of the mortgaged property shall, after deducting the costs of the sale, be paid to the person foreclosing the mortgage, and when there shall be any balance or residue, after paying off the mortgage debt due, the same shall be paid to the junior encumbrancers in the order of their priority, to be ascertained by the court, or if there be no such encumbrancers or there be a balance or residue after payment to them, then to the mortgagor or his duly authorized agent, or to the person entitled to it.[538]

9.4. How sale to proceed in case the debt is not all due

If the debt for which the mortgage or encumbrance was held is not all due as provided in the judgment, as soon as a sufficient portion of the property has been sold to pay the total amount and the costs due, the sale shall terminate; and afterwards, as often as more becomes due for principal or interest and other valid charges, the court may, on motion, order more to be sold. But if the property Cannot be sold in portions without prejudice to the parties, the whole shall be ordered to be sold in the first instance, and the entire debt and costs shall be paid, if the proceeds of the sale shall be sufficient therefor, there being a rebate of interest where such rebate is proper.[539]

9.5. Deficiency judgment

If upon the sale of any real property as provided in Sec. S of Rule 68 there be a balance due to the plaintiff after applying the proceeds of the sale, the court, upon motion, shall render judgment against the defendant for any

such balance for which, by the record of the case, he may be personally liable to the plaintiff, upon which the execution may issue immediately if the balance is all due at the time of the rendition of the judgment; otherwise, the plaintiff shall be entitled to execution at such time as the balance remaining becomes due under the terms of the original contract, which time shall be stated in the judgment.[540]

9.6. Registration[541]

A certified copy of the final order of the court confirming the sale shall be registered in the registry of deeds. If no right of redemption exists, the certificate of title in the name of the mortgagor shall be cancelled, and a new one issued in the name of the purchaser.

Where a right of redemption exists, the certificate of title in the name of the mortgagor shall not be cancelled, but the certificate of sale and the order confirming the sale shall be registered and a brief memorandum thereof made by the registrar of deeds upon the certificate of title. In the event the property is redeemed, the deed of redemption shall be registered with the registry of deeds and a brief memorandum thereof shall be made by the registrar of deed on said certificate of title.

If the property is not redeemed, the final deed of sale executed by the sheriff in favor of the purchaser at the foreclosure sale shall be registered with the registry of deeds; whereupon the certificate of title in the name of the mortgagor shall be cancelled and a new one issued in the name of the purchaser.

- EXTRA-JUDICIAL FORECLOSURE OF MORTGAGE

10.1. Under Act 3135, as amended

When a sale is made under a special power inserted in or attached to any real estate mortgage hereafter made as security for the payment of money or the fulfillment of any other obligation, the following shall govern as to the manner in which the sale shall be effected whether or not provision for the same is made in the power.[542]

10.1.1. The sale shall be made in the province in which the property sold is situated and in case the place within said province in which the sale is to be made is the subject of stipulation, the sale shall be made in said place or in the municipal building of the municipality in which the property or part thereof is situated.[543]

10.1.2. Notice shall be given by posting notices of the sale for not less than twenty (20) days in at least three (3) public places of the municipality or city where the property is situated, and if such property is worth more than four hundred (P400.00) pesos, such notice shall be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation in the municipality or city.[544]

10.1.3. The sale shall be made at public auction between the hours of nine (9:00) in the morning and four (4:00) in the afternoon and shall be under the direction of the sheriff of the province, the judge of the municipality in which such sale has to be made or of a notary public of said municipality who shall be entitled to collect a fee of five (P5.00) pesos for each day of actual work performed, in addition to his expenses.[545]

10.1.4. At any sale, the creditor, trustee or other person authorized to act for the creditor, may participate in the bidding, and purchase under the same conditions as any other bidder, unless the contrary has been expressly provided in the mortgage or trust deed under which the sale is made.[546]

10.2. Under the Chattel Mortgage Law[547]

10.2.1. Notices are posted for at least ten (10) days in at least two (2) public places in the municipality where the

mortgaged property is to be sold, designating the time, place and purpose of the sale;

10.2.2. The mortgagee, his executor, administrator, or assign notifies, at least ten (10) days before the sale, the mortgagor or the person holding under him and other persons holding subsequent mortgages, of the time and place of sale, either by notice in writing directed to him or left at his abode if within the municipality, or sent by mail if he does not reside in such municipality;

10.2.3. The mortgaged property is sold at public auction by a public officer at a public place in the municipality where the mortgagor resides or where the property is situated, as designated in the notice;

10.2.4. Within thirty (30) days after the sale, the officer making the sale makes a return of his doings, the same to be filed and recorded with the office of the register of deeds where the mortgage has been recorded;

10.2.5. The officer's return describing the articles sold and stating the amount received for each article operates as a discharge of the lien created by the mortgage;

10.2.6. The proceeds of the sale will be distributed and applied to the following payments: (a) costs and expenses of keeping and sale; (b) amount of demand or obligation secured by the chattel mortgage; (c) obligations due to persons holding subsequent mortgages in their order; and (d) balance turned over the mortgagor or person holding under him on demand.

10.3. Procedure in Extra-Judicial Foreclosure of Mortgage [548]

10.3.1. All applications for extra-judicial foreclosure of mortgage whether under the direction of the sheriff or a notary public, pursuant to Act No. 3135, as amended by Act No. 4118, and Act No. 1508, as amended, shall be filed with the Executive Judge, through the Clerk of Court who is also Ex-Officio Sheriff.

10.3.2. Upon receipt of an application for extra-judicial foreclosure of mortgage, it shall be the duty of the Clerk of Court to:

10.3.2.1. receive and docket said application and to stamp thereon the corresponding file number, date and time of filing;

10.3.2.2. collect the filing of fees thereof (pursuant to Rule 141, Sec. 7 (c) , as amended by A.M. No. 00-2-01-SC), and issue the corresponding official receipt;

10.3.2.3. examine, in case of real estate mortgage foreclosure, whether the applicant has complied with all the requirements before the public auction is conducted under the direction of the sheriff or a notary public, pursuant to Sec. 4 of Act 3135, as amended.

10.3.3. The Clerk of Court shall sign and issue the certificate of sale, subject to the approval of the Executive Judge, or in his absence, the Vice Executive Judge. No certificate of sale shall be issued in favor of the highest bidder until all fees provided for in Sees. 7 and 9 of Rule 141, as amended by A.M. 00-2-01-SC, shall have been paid; Provided that in no case shall the amount payable under Rule 141, Section 9(1), as amended, exceed P100,000.00.

10.3.4. After the certificate of sale has been issued to the highest bidder, the Clerk of Court shall keep the complete records, while awaiting any redemption within a period of one (1) year from the date of registration of the certificate of sale with the Register of Deeds concerned, after which the records shall be archived. Juridical persons whose property is sold pursuant to an extra-judicial foreclosure, shall have the right to redeem the property until, but not after, the registration of the certificate of foreclosure sale which in no case shall be more

than three (3) months after foreclosure, whichever is earlier, as provided in Sec. 47 of Rep. Act No. 8791, as amended.

10.3.5. Where the application concerns the extra-judicial foreclosure of mortgages of real estates and/or chattels in different locations covering one indebtedness, only one filing fee corresponding to such indebtedness shall be collected. The collecting Clerk of Court shall, apart from the official receipt of the fees, issue a certificate of payment indicating the amount of indebtedness, the filing fees collected, the mortgages sought to be foreclosed, the real estates and/or chattels mortgaged and their respective locations, which certificate shall serve the purpose of having the application docketed with the Clerks of Court of the places where the other properties are located and of allowing the extra-judicial foreclosures to proceed thereat.

10.3.6. The notices of auction sale in extra-judicial foreclosure for publication by the sheriff or by a notary public shall be published in a newspaper of general circulation pursuant to Sec. 1 of Pres. Decree No. 1079, dated January 2, 1977, and non-compliance therewith shall constitute a violation of Section 6 thereof.

10.3.7. The Executive Judge shall, with the assistance of the Clerk of Court and Ex-Officio Sheriff, raffle applications for extra-judicial foreclosure of mortgage under the direction of the sheriff among all sheriffs, including those assigned to the Office of the Clerk of Court, and Sheriffs IV assigned in the branches.

The Executive Judge shall supervise the raffle with the assistance of the Clerk of Court. A sheriff to whom the case has been raffled shall be excluded in the succeeding raffles and shall participate again only after all other sheriffs shall have been raffled a case each.

10.3.8. The name/s of the bidder/s shall be reported by the sheriff or the notary public who conducted the sale to the Clerk of Court before the issuance of the certificate of sale.

10.3.9. The implementing sheriff shall submit to the Clerk of Court a quarterly report to include all foreclosure sales he has conducted, dates of the auction sales, descriptions of the properties, sale prices, names of the highest bidders, numbers of the official receipts issued for the fees paid, and amounts paid. The Clerk of Court shall certify the report and submit the same to the Financial Management Office, Office of the Court Administrator within fifteen (15) days after the end of each quarter.

- FORECLOSURE OF MORTGAGE BY RURAL BANKS[549]

The foreclosure of mortgages covering loans granted by rural banks and executions of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan excluding interests due and unpaid, does not exceed one hundred thousand pesos (P100, 000.00) or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions.

It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the most conspicuous area of the municipal building, municipal public market, rural bank, barangay hall and barangay public market, if any, where the land mortgaged is situated during the period of sixty (60) days immediately preceding the public auction or execution judgment.

Proof of publication, as required herein, shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case; Provided: That when a homestead or free patent is foreclosed, the homesteader or free patent holder, as well as his heirs, shall have the right to redeem the same within one (1) year from the date of foreclosure in the case of land not covered by a Torrens title or one (1) year from the date of the registration of the foreclosure in the case of land covered by

a Torrens title; Provided, finally: That in any case, borrowers, especially those who are mere tenants, need only to secure their loans with the produce corresponding to their share.

A rural bank shall be allowed to foreclose lands mortgaged to it: Provided, That said lands shall be covered under Rep. Act No. 6657.

- FORECLOSURE OF MORTGAGE BY THRIFT BANKS[550]

The foreclosure of mortgage covering loans granted by thrift banks and executions of judgments thereon involving real properties levied upon by a sheriff shall be exempt from the publication requirements where the total amount of loan, excluding interests due and unpaid, does not exceed one hundred thousand pesos (P100,000.00) or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions by the nature of service of customers served by each category of the thrift bank.

It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the conspicuous area of a thrift bank's premises, municipal building, municipal public market, barangay hall and barangay public market, if there be any, where the land mortgaged is situated, within a period of sixty (60) days immediately preceding the public auction or execution of judgment.

Proof of publication, as required herein, shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case.

A thrift bank shall be allowed to foreclose lands mortgaged to it: Provided, That said lands shall be covered under Rep. Act No. 6657.

- MANDATORY FORECLOSURE BY GOVERNMENT FINANCIAL INSTITUTIONS

It shall be mandatory for government financial institutions, after the lapse of sixty (60) days from the issuance of Pres. Decree No. 385, to foreclose collaterals and/or securities for any loan, credit, accommodation, and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges, amount to at least twenty per cent (20%) of the total outstanding obligations, including interest and other charges, as appearing in the books of account and/or related records of the financial institution concerned. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective contracts with their debtors, including the right to foreclosure on loans, credits, accommodations and/or guarantees on which the arrearages are less than twenty percent (20%).[551]

Upon the application for foreclosure of the collateral of delinquent borrowers, whether judicially or extra-judicially, by any government financial institution, the court and/or officials concerned shall immediately act and give priority to the same and schedule the publication thereof within five (5) days from receipt of the application, the auction sale to be held not later than ten (10) days from the date of the last publication. The certificate of sale must be issued on the date of sale and the same must be registered by the Register of Deeds concerned not later than five (5) days after submission of the certificate of sale.[552]

As a result of foreclosure or any other legal proceedings wherein the properties of the debtor which are foreclosed, attached or levied upon in satisfaction of a judgment are sold to a government financial institution, the said properties shall be placed in the possession and control of the financial institution concerned, with the assistance of the Armed Forces of the Philippines whenever necessary. The petition for writ of possession shall be acted upon by the Court within fifteen (15) days from the date of filing.[553]

- REDEMPTION UNDER GENERAL BANKING ACT[554]

In the event of foreclosure, whether judicially or extra-judicially, of any mortgage on real estate which is security for any loan or other credit accommodation granted, the mortgagor or debtor whose real property has been sold at public auction, judicially or extra-judicially, for the full or partial payment of his obligation shall have the right, within one (1) year after the sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at the rate specified in the mortgage, and all the costs and other expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned whether in a judicial or extra-judicial foreclosure shall have the right to enter upon and take possession of such property immediately after the date of confirmation of the auction sale by the court and administer the same in accordance with law. Any petition in court to enjoin or restrain the conduct of foreclosure proceedings instituted pursuant to this provision shall be given due course only upon the filing by the petitioner of a bond in an amount fixed by the court conditioned that he will pay all the damages which the bank may suffer by the enjoining or the restraint of the foreclosure proceedings.

Notwithstanding Act 3135, juridical persons whose property is being sold pursuant to an extra-judicial foreclosure, shall have the right to redeem in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier.

- SPECIAL SHERIFF FOR DBP

The Development Bank of the Philippines may, upon the recommendation of its Chief Legal Counsel, deputize any member of its legal staff to act as special sheriff in foreclosure cases, in the sale or attachment of the debtor's properties, and in the enforcement of court writs and processes in cases involving the Bank. The special sheriff of the Bank shall make a report to the proper court after any action taken by him, which shall treat such action as if it were an act of its own sheriff in all respects.[555]

- SEARCH AND SEIZURE IN CIVIL ACTIONS FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

16.1. The writ of search and seizure

Where any delay is likely to cause irreparable harm to the intellectual property right holder or where there is demonstrable risk of evidence being destroyed, the intellectual property holder or his duly authorized representative in a pending civil action for infringement or who intends to commence such action may apply ex parte for the issuance of a writ of search and seizure directing the alleged infringing defendant or expected adverse party to admit into his premises the persons named in the order and to allow the search, inspection, copying, photographing, audiovisual recording or seizure of any document and article specified in the order.[556]

16.2. Where application filed

The application shall be filed with any of the Regional Trial Courts of the judicial region designated to try violations of intellectual property rights stationed at the place where the alleged violation occurred or is to occur, or the place to be searched, at the election of the applicant. Provided, however, that where the complaint for infringement has already been filed, the application shall be made in the court where the case is pending.[557]

16.3. Examination of applicant; record; confidentiality of proceedings[558]

The application shall be acted upon within twenty four (24) hours from its filing. The Judge must before issuing

the writ, examine in the form of searching questions and answers, in writing and under oath or affirmation, the applicant and the witnesses he may produce on facts personally known to them. Their sworn statements and their affidavits shall form part of the record of the case.

The hearing on the application for the writ shall be held in chambers of the Judge. Court personnel shall maintain the confidentiality of the application proceeding.

The court may require the applicant to give other information necessary for the identification of the articles and documents to be searched, inspected, copied or seized and the premises to be searched. Where feasible, it may direct the applicant to submit copies and photographs of the documents or articles to be seized and impounded.

16.4. When writ may issue

If the Judge is satisfied with the proof of facts upon which the application is based, he shall issue the writ requiring the search, inspection or copying of the subject documents or articles or commanding the sheriff to take them into his custody subject to the control of the court. The enforcement of the writ shall be supervised by an independent commissioner to be appointed by the court.[559]

16.5. Contents of the writ [560]

The writ shall contain the following:

16.5.1. an order to the alleged infringing defendant, expected adverse party or to the person who appears to be in charge or in control of the premises or residing or working therein to permit the persons named in the writ to enter into the premises for the purpose of searching, inspecting, copying, or removing from the premises and transferring to the custody of the sheriff and subject to the control of the court the subject documents and articles;

16.5.2. an order to the alleged infringing defendant, expected adverse party or to the person in charge or in control of the premises to disclose to the sheriff serving the writ the location of the documents and articles subject of the writ;

16.5.3. the period when the writ shall be enforced which in no case shall be more than ten (10) days from the date of issuance by the court;

16.5.4. the names of the applicant or his agent or representative and the commissioner who shall supervise the enforcement of the writ; and

16.5.5. other terms and conditions that will insure the proper execution of the writ with due regard to the rights of the alleged infringing defendant or expected adverse party.

It shall contain a warning that violation of any of the terms and conditions of the writ shall constitute contempt of court.

16.6. When writ shall be served.

The writ shall be served only on weekdays and from 8 o'clock in the morning to 5 o'clock in the afternoon. However, the court may direct that the writ be served on any day and any time for compelling reasons stated in the application and duly proved.[561]

16.7. To whom writ shall be served[562]

The writ shall be served on the alleged infringing defendant or expected adverse party in the place to be searched.

If the alleged infringing defendant or expected adverse party cannot be found in the premises, the writ shall be

served on his agent or representative. In the absence of an agent or representative, it shall be served on the person in charge or in control of the premises, or residing or working therein who is of sufficient age and discretion. If such person is absent, the sheriff or proper officer shall post the papers on the premises and proceed with the enforcement of the writ.

16.8. Search to be conducted in the presence of defendant, his representative, person in charge of the premises, or witnesses

The premises may not be searched except in the presence of the alleged infringing defendant, expected adverse party or his representative or the person in charge or in control of the premises or residing or working therein who shall be given the opportunity to read the writ before its enforcement and seek its interpretation from the commissioner. In the absence of the latter, two persons of sufficient age and discretion residing in the same locality shall be allowed to witness the search or in the absence of the latter, two persons of sufficient age and discretion residing in the nearest locality.[563]

16.9. Manner of search and seizure; duties of the sheriff[564]

Upon service of the writ in accordance with Sec. 11 hereof, the sheriff under the supervision of the commissioner shall search for the documents and articles specified in the writ, and take them in his custody subject to the control of the court.

If the subject articles are not capable of manual delivery, the sheriff shall attach to them a tag or label stating the fact of seizure and warning all persons from tampering with them.

The sheriff shall, in the presence of the applicant or his representative, and under the supervision of the commissioner, prepare a detailed list of the seized documents and articles. He shall give an accurate copy of the same to the alleged infringing defendant, expected adverse party, his agent or representative, to the person in charge or in control of the premises or residing or working therein in whose presence the search and seizure were made. In the absence of the person in charge or in control of the premises or residing or working therein, the sheriff must, in the presence of at least two witnesses of sufficient age and discretion residing in the same locality, leave a copy of the receipt in the place in which he found the seized property. Where no witnesses are available in the same locality, the copy of the receipt shall be left by the sheriff in the presence of two witnesses residing in the nearest locality. The applicant or his representative and the commissioner shall also be given a copy of the receipt.

After the sheriff has taken possession of the documents and articles, he shall deliver them to a bonded warehouse or government warehouse for safekeeping. The applicant or his representative shall be allowed access to said materials for the purpose of examining them.

The applicant shall be responsible for the necessary expenses incurred in the seizure and safekeeping of the documents and articles in a bonded warehouse or government warehouse.

16.10. Use of reasonable force to effect writ

The sheriff, if refused admittance to the premises after giving notice of his purpose and authority or in the absence of the alleged infringing defendant or expected adverse party, his agent or representative, or person in charge or in control of the premises or residing or working therein who is of sufficient age and discretion, may use reasonable force to gain entry to the premises or any part of the building or anything therein, to enforce the writ or to liberate himself or any person lawfully aiding him when unlawfully detained therein.[565]

16.11. Seizure of computer disks or other storage devices[566]

The seizure of a computer disk or any storage device may be executed in any of the following manner:

16.11.1. by the physical taking thereof;

16.11.2. by copying its content in a suitable device or disk provided by the applicant; or

16.11.3. by printing out the contents of the disk or device with the use of a printer.

When the computer disks or storage devices cannot be readily removed from the computer to which they are fitted, the sheriff may take the subject computer from the custody of the alleged infringing defendant, expected adverse party or person in charge or in custody of the premises or residing or working therein.

16.12. Sheriff's return[567]

The sheriff who executed the writ shall, within three (3) days from its enforcement, make a verified return to the court which issued the writ. The return shall contain a full statement of the proceedings under the writ and a complete inventory of the documents and articles searched, inspected or copied or seized and impounded, with copies served on the applicant, the defendant or expected adverse party and the commissioner.

If not all of the documents and articles enumerated in the order and writ were seized, the sheriff shall so report to the court and state the reasons therefor. All objections of the defendant, expected adverse party or person in charge of the premises on the manner and regularity of the service of the writ shall be included by the sheriff in his return.

16.13. Proceedings on return

Five (5) days after issuance of the writ, the issuing Judge shall ascertain if the writ has not been served or the return has been made by the sheriff. If the writ was not served or no return was made, it shall summon the sheriff and the applicant to whom the writ was issued and require them to explain why the writ was not served or why no return has been filed as the case may be. If the return has been made, the Judge shall, after notice to the sheriff and the commissioner, ascertain whether the provisions of this Rule and applicable laws have been complied with.[568]

16.14. Direct filing, provisional docketing and deposit of prescribed filing fee

The Regional Trial Courts specially designated to try violations of intellectual property rights shall keep a distinct and separate logbook for writs of search and seizure. The application for a writ of search and seizure filed directly with the courts shall be given a provisional docket number. The prescribed filing fee shall be deposited with the Branch Clerk of Court and properly receipted for and transmitted to the Clerk of Court within twenty-four (24) hours from issuance of the order granting or denying the application for said writ. If a formal complaint is filed thereafter, the Clerk of Court may make a reassessment of the filing fee.[569]

16.15. Separate logbook

In every court, there shall be a logbook under the custody of the Clerk of Court wherein shall be docketed and entered within twenty four (24) hours after the issuance or denial of the writ of search and seizure, the filing of such application and other particulars thereof. All the subsequent proceedings concerning the writ of search and seizure shall be faithfully recorded in the separate logbook.[570]

- GUIDELINES AND PROCEDURES IN THE SERVICE AND EXECUTION OF COURT WRITS AND PROCESSES[571]

17.1. All Clerks of Court, who are also ex-officio sheriffs, and/or their deputy sheriffs shall serve all court processes and execute all writs of their respective courts within their territorial jurisdiction.

17.2. The Judge of the Regional Trial Court, in the absence of the deputy sheriff appointed and assigned in his sala, may at any time designate any of the deputy sheriffs in the office of the Clerk of Court. However, the said Judge shall not be allowed to designate the deputy sheriff of any other branch without first securing the consent of the Presiding Judge thereof.

17.3. All sheriffs and deputy sheriffs shall submit a report to the Judge concerned of the action taken on all writs and processes assigned to them within ten (10) days from receipt of said process or writ. Said report shall form part of the records of the case.

17.4. No sheriff or deputy sheriff shall execute a court writ outside his territorial jurisdiction without first notifying in writing, and seeking the assistance of the sheriff of the place where the execution shall take place.

17.5. No sheriff or deputy sheriff shall act as special deputy sheriff of any party litigant.

17.6. The Judge may be allowed to designate or deputize any person to serve court processes and writs in remote areas in the absence of the regular sheriff thereat.

17.7. The sheriff is primarily responsible for the speedy and efficient service of all court processes and writs originating from his court and the branches thereof, and those that may be delegated to him from other courts. He shall submit to the Office of the Court Administrator, Supreme Court, a monthly report, which shall indicate therein the number of writs and processes issued and served, as well as the number of writs and processes unserved, during the month, and the names of deputy sheriffs who executed each writ. Unserved writs and processes shall be explained in the report.

G. DUTIES IN ORDINARY AND CADASTRAL LAND REGISTRATION CASES

- LRA MANUAL OF INSTRUCTIONS

For the purpose of insuring a uniform and expeditious procedure in the adjudication of land titles under the provisions of Pres. Decree No. 1529 and Act No. 2259, as amended, otherwise known as the Property Registration Decree and the Cadastral Act, respectively, it is the duty of the Clerks of Court of Regional Trial Courts to comply with the provisions of the "Manual of Instructions to be Observed by Clerks of Courts of Regional Trial Courts in Ordinary and Cadastral Land Registration Cases" issued by the Administrator of the Land Registration Authority, the whole text of which is attached to this Manual as Appendix "B," and with such rules and regulations which the Administrator may circularize from time to time in the exercise of his supervision over them as subordinate of the Land Registration Authority relative to ordinary and cadastral land registration cases.

- DELEGATED JURISDICTION

Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts may be assigned by the Supreme Court to hear and determine cadastral and land registration cases covering lots where there is no controversy or opposition or contested lots where the value of the property does not exceed one hundred thousand pesos (P100,000.00), such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants, if there are more than one, or from the corresponding tax declaration of the real property. Their decisions in these cases shall be appealable in the same manner as decisions of the Regional Trial Courts.[572]

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- [1] Sec. 19 of Batas Big. 129, otherwise known as the Judiciary Act of 1980, as amended by Rep. Act No. 7691. (The jurisdictional amount in 1.3, 1.4 and 1.8 was adjusted from P100,000.00 to P200,000.00 effective March 20, 1999 and shall be further adjusted to P300,000.00 five years there-after pursuant to Circular No. 21-99 dated April 15, 1999 in relation to Sec. 5 of Rep. Act No. 7691. In the case of Metro Manila, the jurisdictional amount was adjusted from P200, 000.00 to P400,000.00 effective March 20, 1999.
- [2] Adm. Circular No. 09-94, June 14, 1994.
- [3]Batas Blg. 129, Sec. 20.
- [4] Rep. Act No. 7691.
- [5] Pres. Decree No. 1606, as amended by Rep. Act No. 7975 and Rep. Act No. 8246.
- [6] Adm. Circular No. 09-94, June 14, 1994
- [7] Batas Blg. 129, Sec. 32 (2), as amended by Sec. 2, Rep. Act. No. 7691, Sec. 2.
- [8] Rep. Act No. 6425, Sec. 39, as amended.
- [9] Adm. Circular No. 113-95; Rep. Act No. 8293.
- [10]Omnibus Election Code, Sec. 268.
- [11] Adm. Circular No. 194-96, October 21, 1996; Rev. Penal Code, Art. 360.
- [12]Rep. Act No. 9160, (Anti-Money Laundering Act of 2001). Sec. 5.
- [13] Batas Blg. 129, Sec. 21
- [14] Ibid.
- [15] Constitution (1987), Art. VIII, Sec. 21, Batas Blg. 129.
- [16] Batas Blg. 129, Sec. 22.
- [17] Rep. Act No. 8369.
- [18] Adm. Order No.6, June 30, 1975, pars. I (5) and IV (2)
- [19] Rules of Court, Rule 136, Sec. 8.
- [20] Ibid.. Sec. 9.
- [21] Id
- [22] Ibid, Sec. 10.
- [23] Ibid, Sec. 13.
- [24] DOJ Circular No. 51, June 5, 1969.
- [25]Rules of Civil Procedure (1997), Rule 58, Sec. 4.
- [26] Ibid., Rule 13, Sec. 3.
- [27] Id.

- [28] Ago Timber Corp. v. Ruiz, et al., 21 SCRA 138 (1967).
- [29] Rules of Civil Procedure (1997), Rule 13, Sec. 3.
- [30] Rules of Court, Rule 141, Sec. 1.
- [31] Ibid., Sec. 18.
- [32] Ibid.. Sec. 21.
- [33] Pres. Decree No. 946, Sec. 16.
- [34] Rules of Court, Rule 136, Sec. 8.
- [35] Adm. Order No. 36-96, March 15, 1996.
- [36] Rules of Civil Procedure (1997), Rule 20, Sec. 2.
- [37] Circular No.7, September 23, 1974.
- [38] Id., as amended by Adm. Order No. 36-96, March 15, 1996.
- [39] Adm. Order No. 36-96, March 15, 1996.
- [40] Id.
- [41] Id.
- [42] Id.
- [43] Id.
- [44] Circular No.7, September 23, 1974
- [45] Id.
- [46] Id.
- [47] Circular No. 20, October 4, 1979
- [48] Adm. Order No. 36-96, March 15, 1996.
- [49] Id.
- [50] Id.
- [51] Id.
- [52] Id.
- [53] Id.
- [54] Id.
- [55] Id.
- [56] Id.
- [57] Id.
- [58] Adm. Order No. 36-96, March 15, 1996.

- [59] Id.
- [60] Adm. Order No.6, June 30, 1975.
- [61] Adm. Circular No. 1, January 28, 1988.
- [62] Circular No. 10, May 22, 1987.
- [63]Id.
- [64] Circular No.7, September 23, 1974.
- [65]Adm. Circular No. 1, January 28, 1988.
- [66]Adm. Circular No. 3-94, January 26, 1994.
- [67]Id.
- [68] Id.
- [69] Adm. Circular No. 3-94, January 26, 1994.
- [70] Circular No.7, September 23, 1974.
- [71] Rules of Civil Procedure (1997), Rule 31, Sec. 1.
- [72] Rev. Internal Rules of the Court of Appeals, Rule 3, Sec. 7
- [73] Adm. Order No. 104-96, October 21, 1996
- [74] A.M. No. 99-1-13-SC, February 9, 1999
- [75] Adm. Order No. 80A-90, amending Adm. Order No. 80, July 18, 1989.
- [76] Circular No.7, September 23, 1974.
- [77]Circular No. 19-98, February 18, 1998.
- [78] Loc. cit.
- [79] Adm. Order No. 19-97, February 14, 1997.
- [80] Rules of Civil Procedure (1997), Rule 14, Sec. 1.
- [81] Ibid., Sec. 2.
- [82] Ibid., Sec. 5.
- [83] Ibid., Sec. 3.
- [84] Ibid., Sec. 4.
- [85] Ibid., Rule 38, Sec. 4.
- [86] Ibid., Rule 65, Sec. 6.
- [87] Rules of Court. Rule 91, Sec. 2.
- [88] Ibid.. Rule 99, Sec. 4.
- [89] Rep. Act No. 8552, Art. IV, Sec. 11.

- [90] Pres. Decree No. 603, Art. 23.
- [91] A.M. No. 02-1-19-SC, Feb. 28, 2002.
- [92] Ibid., Sec. 5 (a) (iv).
- [93] Ibid.. Sec. 6 (d).
- [94] Rules of Court, Rule 101, Sec. 2.
- [95] Ibid., Rule 102, Sec. 5.
- [96] See Pres. Decree No. 1079 for guidelines on publications.
- [97] Op. cit., Rule 109, Sec. 3.
- [98] Ibid., Rule 107, Sec. 4.
- [99] Ibid., Rule 108, Sec. 4; see also Pres. Decree No. 1079.
- [100] Rep. Act No. 6425, Sec. 30, as amended by Pres. Decree No. 44.
- [101] Family Code, Art. 136.
- [102] Rules of Civil Procedure (1997), Rule 13, Sec. 6.
- [103] Ibid., Sec. 7.
- [104] SC Memo Circular, November 13, 1975.
- [105] Op.cit., Sec. 8.
- [106] Ibid.. Sec. 10.
- [107] Ibid.. Sec. 11.
- [108] Ibid.. Sec. 2.
- [109] Rules of Civil Procedure (1997), Rule 13, Sec. 12.
- [110] Ibid., Sec. 13.
- [111] DOJ Circular No.2, January 12, 1959.
- [112] Rules of Civil Procedure (1997), Rule 15, Sec. 5.
- [113] Ibid., Sec. 6.
- [114] Ibid., Sec. 7.
- [115] Adm. Circular No. 3-99, January 15, 1999.
- [116] Rules of Civil Procedure (1997), Rule 18, Sec. 6, as amended by Adm. Circular No. 3-99, January 15, 1999.
- [117] Id.
- [118] Ibid., Sec. 3.
- [119] Manual. Sec. D (2.2.1.3.)
- [120] Rules of Civil Procedure (1997), Rule 18, Sec. 4

- [121] Ibid., Sec. 5.
- [122] Ibid., Sec. 7.
- [123] Adm. Circular No. 3-99, January 15, 1999.
- [124] Rules of Civil Procedure (1997), Rule 21, Sec. 3
- [125] Ibid., Sec. 5.
- [126] Circular No. 4, April 7, 1987.
- [127] Op. cit., Sec. 6.
- [128] Circular No. 22, September 2, 1987.
- [129] SC Memo Circular No.7, July 13, 1978.
- [130] DOJ Circular No. 32, August 15, 1978.
- [131] DOJ Circular No. 23, April 19, 1965.
- [132] DOJ Circular No. 66, September 7, 1955.
- [133] DOJ Circular No. 36, July 3, 1958.
- [134] DOJ Circular No. 153, November 3, 1957, quoting Sec. 4, par. 7, Phil. Army Regulations No. 410-5
- [135] Rep. Act No. 1405, Secs. 2 and 3
- [136] Rep. Act No. 9160, Sec. 11
- [137] Rules of Civil Procedure (1997), Rule 21, Sec. 4.
- [138] Adm. Circular No. 3-99, January 15, 1999.
- [139] Op. cit., Rule 30, Sec. 1.
- [140] Circular No. 27-97. March 31, 1997.
- [141] Adm. Circular 3-99, January 15, 1999.
- [142] Rules of Court, Rule 135, Sec. 7.
- [143] Ibid., Rule 136, Sec. 17.
- [144] Adm. Circular No. 24-90, July 12, 1990.
- [145] DOJ Circular No. 28, May 27, 1954.
- [146] Op. cit.
- [147] Id.
- [148] Id.
- [149] Id.
- [150] Rules of Civil Procedure (1997), Rule 3, Sec. 21
- [151] Pres. Decree No. 946, Sec. 16.

[152] Id.

[153] SC Executive Circular No. 11, December 15, 1976.

[154] Rules of Civil Procedure (1997). Rule 32, Sec. 1.

[155] Ibid., Sec. 2.

[156] Ibid., Sec. 3.

[157] Rules of Civil Procedure (1997), Rule 32, Sec. 9.

[158] Ibid., Sec. 10.

[159] Ibid., Sec. 11.

[160] Ibid., Sec. 13.

[161] Ibid.. Rule 30, Sec. 9.

[162] Adm. Circular No. 3-99, January 15, 1999.

[163] Adm. Circular No. 1, January 28, 1988 reiterated in Adm. Circular No. 3-99, January 15, 1999.

[164] Rules of Civil Procedure (1997), Rule 36, Sec. 1

[165] Circular No. 1-89, amended in Circular No. 67-2001 dated October 8, 2001.

[166] Adm. Circular No. 57, November 19, 1989.

[167] Rules of Civil Procedure (1997), Rule 36, Sec. 2.

[168] Ibid., Rule 136, Sec. 9.

[169] Batas Blg. 129, Sec. 39.

[170] Interim and Transitional Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1981 (Batas Blg. 129), 19.

[171] Rules of Civil Procedure (1997), Rule 67, Sec. 13

[172] Ibid., Rule 68, Sec. 7.

[173] Ibid.. Rule 13, Sec. 9.

[174] Adm. Circular No. 57, November 19, 1989.

[175] Rules of Court, Rule 97, Sec. 5.

[176] Ibid., Rule 99, Sec. 8 and Pres. Decree No. 603, Art. 37

[177] Ibid., Rule 100, Sec. 4.

[178] Ibid., Rule 103, Sec. 6.

[179] Ibid., Rule 108, Sec. 7.

[180] Family Code, Exec. Order 209, as amended, Art. 52.

[181] Ibid., Art. 139.

- [182] Rules of Court, Rule 142, Sec. 1.
- [183] Ibid., Sec. 8.
- [184] Rules of Civil Procedure (1997), Rule 66, Sec. 12.
- [185] Ibid., Rule 69, Sec. 10.
- [186] Rules of Court, Rule 102, Sec. 19.
- [187] Rules of Civil Procedure (1997), Rule 40, Sec. 7.
- [188] Ibid., Sec. 8.
- [189] Ibid., Rule 41, Sec. 2.
- [190] Ibid., Sec. 3.
- [191] Rules of Civil Procedure (1997), Rule 41, Sec. 4
- [192] Ibid., Sec.
- [193] Ibid., Sec. 9.
- [194] Ibid., Sec. 10.
- [195] Rules of Court, Rule 141, Sec. 11.
- [196] Ibid., Sec. 12.
- [197] Rules of Civil Procedure (1997), Rule 42, Sec. 1.
- [198] Ibid., Sec. 7.
- [199] Ibid., Sec. 8.
- [200] Adm. Circular No. 7-A-92, June 21, 1993.
- [201] Adm. Circular No. 18-94, November 29, 1994.
- [202] Rev. Rules of Criminal Procedure, Rule 110, Sec. 1.
- [203] Ibid., Rule 111, Sec. 1.
- [204] Ibid., Sec. 2.
- [205] Revised Rules of Criminal Procedure, Rule 111, Sec. 3.
- [206] Ibid., Sec. 4.
- [207] Ibid., Sec. 5.
- [208] Ibid., Sec. 6.
- [209] Rev. Rules of Criminal Procedure (2000), Rule 112, Sec. 6, par. a. 210
- [210] Id., par. c.
- [211] Ibid., Rule 113, Sec. 4.
- [212] Circular No. 47-95, October 2, 1995.

- [213] Circular No. 33-96, April 24, 1996.
- [214] Rev. Rules of Criminal Procedure (2000), Rule 114, Sec. 1.
- [215] Ibid., Sec. 10.
- [216] Ibid., Sec. 11.
- [217] Ibid., Sec. 14.
- [218] Ibid., Sec. 15.
- [219] Ibid., Sec. 2.
- [220] DOJ Circular No. 79, August 2, 1967; DOJ Circular No. 68, October 10, 1972.
- [221] DOJ Circular No. 122, November 10, 1966.
- [222] DOJ Circular No. 68, October 10, 1972.
- [223] DOJ Circular No. 79, August 2, 1967.
- [224] Pres. Decree No. 612, Insurance Code, Sec. 187.
- [225] Memorandum by Hon. Maximo A. Maceren, Court Administrator, September 30, 1988, reiterated in Memorandum by Hon. Ernani Cruz Pano, September 10, 1993.
- [226] DOJ Circular No. 44, July 30, 1958.
- [227] Rev. Rules of Criminal Procedure (2000), Rule 114, Sec. 12
- [228] Rep. Act No. 6036, Sec. 2.
- [229] Rev. Rules of Criminal Procedure (2000), Rule 114, Sec. 16.
- [230] Ibid., Sec. 17.
- [231] Ibid., Sec. 18.
- [232] Ibid., Sec. 19.
- [233] Ibid., Sec. 20.
- [234] Rev. Rules of Criminal Procedure (2000), Rule 114, Sec. 21.
- [235] Memorandum by Hon. Maximo A. Maceren, Court Administrator, September 30, 1988, reiterated in Memorandum by Hon. Ernani Cruz Pano, September 10, 1993.
- [236] Op. cit., Sec. 22.
- [237] DOJ Circular No. 1, January 9, 1950.
- [238] Op. cit., Sec. 23.
- [239] Rev. Rules of Criminal Procedure (2000), Rule 114, Sec. 24.
- [240] Ibid., Sec. 25
- [241] Ibid., Sec. 26.
- [242] DOJ Circular No. 64, September 16, 1955.
- [243] A.M. No. RTJ 89-395, en banc Res., Per Curiam, February 13, 1991.

[244] Adm. Circular No. 2-92, January 20, 1992.

[245] Rev. Rules of Criminal Procedure (2000), Rule 126, Sec. 1.

[246] Ibid., Sec. 2.

[247] Ibid., Sec. 4.

[248] Ibid., Sec. 5 .

[249] Ibid., Sec. 6.

[250] Ibid., Sec. 9.

[251] Ibid., Sec. 10.

[252] Ibid., Sec. 12

[253] Adm. Circular No. 13, October 1, 1985.

[254] Id.

[255] Circular No. 19, August 4, 1987.

[256] A.M. No. 99-10-09-SC, January 25, 2000.

[257] Rev. Rules of Criminal Procedure, Rule 116, Sec. I (The Rule on Juveniles in Conflict with the Law shall apply to those who at the time of the commission of the offense is below 18 years of age but not less than nine years of age).

[258] Rev. Rules of Criminal Procedure, Rule 116, Sec. 2.

[259] Ibid., Sec. 3.

[260] Ibid.. Sec. 4.

[261] Ibid., Sec. 5.

[262] Ibid., Sec. 6.

[263] Ibid., Sec. 7.

[264] Rev. Rules of Criminal Procedure (2000), Rule 116, Sec. 8.

[265] DOJ Circular No. 49, January 6, 1967.

[266] Revised Rules of Criminal Procedure (2000). Rule 118, Sec. 1.

[267] Ibid., Sec. 2

[268] Ibid., Sec. 3.

[269] Ibid.. Sec. 4.

[270] Ibid., Rule 119, Sec. 1.

[271] Ibid., Sec. 2.

[272] Revised Rules of Criminal Procedure (2000), Rule 119, Sec. 3.

[273] Ibid., Sec. 4.

[274] Ibid.. Sec. 5.

- [275] Ibid.. Sec. 6.
- [276] Ibid., Sec. 8.
- [277] Revised Rules of Criminal Procedure (2000), Rule 119, Sec. 9.
- [278] Ibid.. Sec. 11.
- [279] Ibid., Sec. 12.
- [280] Ibid., Sec. 13.
- [281] Revised Rules of Criminal Procedure (2000), Rule 119, Sec. 14.
- [282] Ibid., Sec. 15.
- [283] Ibid., Sec. 16
- [284] Ibid., Sec. 17.
- [285] Ibid., Sec. 18.
- [286] Ibid., Rule 110. Sec. 5. as amended by A.M. No. 02-2-07-SC. April 10, 2002
- [287] Revised Rules of Criminal Procedure (2000), Rule 119, Sec. 21.
- [288] Ibid., Sec. 22.
- [289] Ibid.. Sec. 23.
- [290] Ibid., Sec. 24.
- [291] Adm. Circular No. 6,.December 5, 1977.
- [291-a] Adm. Circular No. 40-2001. August 8, 2001.
- [292] Circular No. 33-96, April 24, 1996.
- [293] Circular No. 1-98. January 2, 1998.
- [294]Adm. Circular No. 58, November 19, 1989.
- [295] Circular No. 56-92, October 5, 1992.
- [296] Adm. Circular No. 23-95, October 11, 1995.
- [297] Ibid.
- [298] Adm. Circular No. 5-90, February 15, 1990.
- [299] Adm. Circular No. 3-99, January 15, 1999.
- [300]Revised Rules of Criminal Procedure (2000), Rule 120, Sec. 1.
- [301]Ibid., Sec. 2.
- [302]Ibid., Sec. 3.
- [303] Ibid., Sec. 4.
- [304] Ibid., Sec. 5.

- [305] Ibid., Sec. 6.
- [306] Revised Rules of Criminal Procedure (2000), Rule 120, Sec. 7.
- [307] Ibid., Sec. 8.
- [308] Pres. Decree No. 968, as amended, Sec. 4.
- [309] Ibid., Sec. 7.
- [310] Bidle v. Shirley (CCA) F. (2d) 566, (Ballantine, p. 825).
- [311] DOJ Circular No. 38, May 14, 1946.
- [312] Circular No. 66-97, October 14, 1997.
- [313] Circular No. 63-97 October 6, 1997 modifying Circular No. 4-92-A dated April 24, 1992.
- [314] DOJ Circular No. 60, August 13, 1951
- [315] Revised Rules of Criminal Procedure (2000), Rule 121, Sec. 1.
- [316] Ibid.. Sec. 2.
- [317] Ibid., Sec. 3.
- [318] Ibid., Sec. 5.
- [319] Ibid., Sec. 6.
- [320] Revised Rules of Criminal Procedure (2000), Rule 122, Sec. 1
- [321] Ibid., Sec. 2.
- [322] Ibid., Sec. 3.
- [323] Revised Rules of Criminal Procedure (2000), Rule 122, Sec. 6.
- [324] Ibid., Sec. 7.
- [325] Ibid., Sec. 8.
- [326] Ibid., Sec. 9.
- [327] Ibid., Sec. 10.
- [328] Revised Rules of Criminal Procedure (2000), Rule 122, Sec. 11.
- [329] Ibid.. Sec. 12.
- [330] Ibid., Sec. 13.
- [331] Adm. Circular No. 7-A-92, June 21, 1993.
- [332] Rule on Juveniles in Conflict with the Law, Sec. 1
- [333] Ibid., Sec. 6.
- [334] Ibid., Sec. 7.
- [335] Rule on Juveniles in Conflict with the Law, Sec. 10
- [336] Ibid., Sec. 11.

- [337] Ibid., Sec. 12.
- [338] Ibid., Sec. 14.
- [339] Ibid., Sec. 16.
- [340] Ibid., Sec. 17.
- [341] Ibid., Sec. 19.
- [342] Rule on Juveniles in Conflict with the Law, Sec. 20.
- [343] Ibid., Sec. 21.
- [344] Ibid., Sec. 22.
- [345] Rule on Juveniles in Conflict with the Law, Sec. 23.
- [346] Ibid., Sec. 24.
- [347] Rule on Juveniles in Conflict with the Law, Sec. 25
- [348] Ibid., Sec. 27.
- [349] Ibid., Sec. 28.
- [350] Ibid., Sec. 29.
- [351] Ibid., Sec. 26.
- [352] Rule on Juveniles in Conflict with the Law, Sec. 18.
- [353] Ibid., Sec. 39.
- [354] Ibid., Sec. 30.
- [355] Ibid., Sec. 5.
- [356] Ibid., Sec. 31.
- [357] Ibid., Sec. 32.
- [358] Rule on Juveniles in Conflict with the Law, Sec. 33.
- [359] Rule on Juveniles in Conflict with the Law, Sec. 34.
- [360] Ibid., Sec. 35.
- [361] Ibid., Sec. 36.
- [362] Ibid., Sec. 38.
- [363] Rule on Examination of a Child Witness, Sec. 1.
- [364] Ibid., Sec. 4 (a).
- [365] Ibid., Sec. 5.
- [366] Ibid., Sec. 6.
- [367] Rule on Examination of a Child Witness, Sec. 7.
- [368] Ibid., Sec. 8.

- [369] Ibid., Sec. 9.
- [370] Ibid., Sec. 10.
- [371] Ibid.. Sec. 11.
- [372]Rule on Examination of a Child Witness. Sec. 12.
- [373] Ibid., Sec. 13.
- [374] Ibid., Sec. 14.
- [375]Ibid., Sec. 15.
- [376] Ibid., Sec. 16.
- [377] Ibid., Sec. 17.
- [378] Ibid., Sec. 18.
- [379] Ibid.. Sec. 19.
- [380] Rule on Examination of a Child Witness, Sec. 20.
- [381] Ibid., Sec. 21.
- [382] Ibid.. Sec. 22.
- [383] Ibid., Sec. 23.
- [384] Ibid.. Sec. 24.
- [385] Ibid.. Sec. 25.
- [386] Rule on Examination of a Child Witness, Sec. 26.
- [387] Ibid., Sec. 27.
- [388] Rule on Examination of a Child Witness. Sec. 31.
- [389] Position Allocation List.
- [390] Civil Service Rules, Rule XV. sec. 4; see also SC Memorandum No.4, June 15, 1973.
- [391] Ruling of the Commissioner of Civil Service, 1st Indorsement, November 7, 1970, re proper interpretation of Civil Service Rule XV, Sec. 4.
- [392] SC Executive Circular No.2, January 21.1977.
- [*] For NCJR. the prescribed office hours is 8:00 A.M. to 12 noon and 12:30 P.M. to 4:30P.M.
- [393] SC Executive Circular No.1, February 5. 1975.
- [394] Id.
- [395] Id.
- [396] Id.
- [397] SC Executive Circular No. 21, November 16, 1973.

- [398] Civil Service Rules, Rule IX, Sees. 1-5.
- [399] SC Supervisory Circular No.9, March 29, 1977.
- [400] Adm. Circular No. 3-2000, June 15, 2000.
- [401] Circular 47-97. July 28. 1997.
- [402] Id.
- [403]Adm. Circular No. 3-2000, June 15, 2000.
- [404] Circular No. 13-92, March 1, 1992.
- [405] A.M. No. 99-8-01-Supreme Court, September 14. 1999.
- [406] Rules of Court, Rule 141, Sec. 19.
- [407]Circular No. 59-94, October 10, 1994.
- [408]Rep. Act No. 3870, Sec. 4, as amended by Pres. Decree No. 1856.
- [409] Rules of Court, Rule 141. Sec. 19(1).
- [410] Id.
- [411] Id.
- [412] Id.
- [413] Circular No. 22-94, April 8, 1994.
- [414] Id.
- [415] Id.
- [416] Id.
- [417] Circular No. 22-94, April 8, 1994.
- [418] Id.
- [419]Adm. Circular No. 3-2000, June 15, 2000.
- [420] Revised Adm. Code, Sec. 638.
- [421] Ibid., as amended, Sec. 190; Pres. Decree No. 500; Rep. Act No. 1687.
- [422] SC Supervisory Circular. July 7, 1976.
- [423] SC Supervisory Circular No.8, March 29, 1977.
- [424] Circular No. 47-97, July 28, 1997.
- [425] Id.
- [426] Adm. Circular No. 3-98, February 5, 1998.
- [427] Adm. Order No.1, s-1954, President of the Philippines; Pres. Decree No. 1288, as amended by Rep. Act No. 6713, sec. 8(A), 2nd par. (c).

- [428] SC Circular No.3, June 6, 1973.
- [429]Rep. Act No. 3019, as amended by Pres. Decree No. 370 and 379.
- [430] Implementing Rules on Rep. Act No. 6713, Rule VII, Sec. 1(c),
- [431] Circular, September 20, 1989.
- [432] Adm. Circular No. 10-96, September 20, 1996.
- [433] Id.
- [434] Id.
- [435] Circular No. 57-98, November 9, 1998.
- [436]Circular No. 37-2002, March 15, 2002.
- [437] A.M. No. 01-1-07-SC, October 16, 2001.
- [438] Rules of Court, Rule 136, Sec. 7.
- [439] Adm. Circular No. 61-2001, December 10, 2001.
- [440] Adm. Circular No. 61-2001, December 10, 2001.
- [441] Adm. Circular No. 1, January. 28, 1988.
- [442]Adm. Circular No. 1, January 28, 1988 as amended by Adm. Circular No. 1-A, July 5, 1988.
- [443] Op. cit.
- [444] Adm. Circular No. 10-94, June 29, 1994, as amended by Adm. Circular No. 2-2001.
- [445] Adm. Circular No. 17-94, November 14, 1994.
- [446] A.M. Circular No. 1-2001, January 2, 2001.
- [447] Adm. Circular, No. 1-2000, February 17, 2000.
- [448]DOJ Circular No. 34, June 10, 1954.
- [449] DOJ Circular No. 61, August 16, 1955, as amended.
- [450]DOJ Circular No. 97, December 15, 1956, as amended.
- [451] Circular No. 39-97, June 19, 1997.
- [452] Circular No. 8-99, January 27, 1999.
- [453] Circular No. 62-96, September 9, 1996.
- [454] SC Adm. Order No. 74, December 12, 1975.
- [455] DOJ Circular No.4, January 14, 1955.
- [456] SC Memo Circular No. 1, January 9, 1978; DOJ Circular No. 42, May 15, 1969.
- [457] SC Memo Circular No. 1, February 13, 1978.
- [458] DOJ Circular No. 49, April 21, 1969.

- [459] SC Circular No.4, January 28, 1985.
- [460] Unnumbered SC Circular, September 20, 1989.
- [461] A.M. No. 02-1-1S-SC, February 28, 2002.
- [462] Circular No. 76-97, October 27, 1997.
- [463] Adm. Circular No. 10-94, June 29, 1994.
- [464] 47 Am. Jur. 821.
- [465] Ibid., p. 822.
- [466] Rules of Civil Procedure (1997), Rule 14, Sec. 3.
- [467] Ibid.. Sec. 4.
- [468] Ibid., Sec. 5.
- [469] Ibid., Sec. 6.
- [470] Ibid., Sec. 7.
- [471] Ibid., Sec. 8.
- [472] Ibid., Sec. 9.
- [473] Rules of Civil Procedure (1997), Rule 14, Sec. 10.
- [474] Ibid., Sec. 11.
- [475] Ibid., Sec. 12.
- [476] Ibid.. Sec. 13.
- [477] Ibid., Sec. 14.
- [478] Ibid., Sec. 15.
- [479] Ibid., Sec. 16.
- [480] Rules of Civil Procedure (1997), Rule 14, Sec. 18.
- [481] Ibid., Rule 21, Sec. 6.
- [482] Ibid.. Sec. 8.
- [483] Rules of Civil Procedure (1997), Rule 21, Sec. 13.
- [484] Ibid., Rule 39. Sec. 9.
- [485] Rules of Civil Procedure (1997), Rule 39, Sec. 9.
- [486] Ibid.
- [487] Ibid., Sec. 11.
- [488] Rules of Civil Procedure (1997), Rule 39, Sec. 14.
- [489] Ibid., Sec. 15.

- [490] Ibid.. Sec. 16.
- [491] Rules of Civil Procedure (1997), Rule 39, Sec. 17.
- [492] Ibid., Sec. 18.
- [493] Ibid.. Sec. 19.
- [494] Ibid., Sec. 20.
- [495] Ibid., Sec. 21.
- [496] Rules of Civil Procedure (1997), Rule 39, Sec. 22.
- [497] Ibid., Sec. 23.
- [498] Ibid., Sec. 24.
- [Ibid., Sec. 25.
- [500] Ibid., Sec. 26.
- [501] Ibid., Sec. 27.
- [502] Ibid., Sec. 28
- [503] Rules of Civil Procedure (1997), Rule 39, Sec. 29.
- [504] Ibid.. Sec. 30.
- [505] Ibid., Sec. 33.
- [506] Ibid., Sec. 39.
- [507] Ibid., Sec. 42.
- [508] Rules of Civil Procedure (1997), Rule 39, Sec. 43.
- [509] Ibid., Sec. 44.
- [510] Ibid., Sec. 45.
- [511] Ibid., Rule 57, Sec.1
- [512] Ibid., Sec. 2.
- [513] Ibid., Sec. 5.
- [514] Rules of Civil Procedure (1997), Rule 57, Sec. 6.
- [515] Ibid.. Sec. 7.
- [516] Rules of Civil Procedure (1997), Rule 57, Sec. 8.
- [517] Ibid., Sec. 9.
- [518] Ibid., Sec. 10.
- [519] Ibid., Sec. 11.
- [520] Ibid., Sec. 12.

- [521] Rules of Civil Procedure (1997), Rule 57. Sec. 13
- [522] Ibid., Sec. 14.
- [523] Ibid., Sec. 15.
- [524] Ibid., Sec. 16.
- [525] Ibid., Sec. 18.
- [526] Ibid., Sec. 19.
- [527] Rules of Civil Procedure (1997), Rule 60. Secs. 1 and 2.
- [528] Ibid., Sec. 4.
- [529] Ibid., Sec. 5.
- [530] Ibid., Sec. 6.
- [531] Ibid., Sec. 7.
- [532] Rules of Civil Procedure (1997), Rule 60, Sec. 8.
- [533] Ibid., Rule 65, Sec. 6.
- [534] Ibid., Sec. 9.
- [535] Ibid., Rule 67, Sec. 5.
- [536] Ibid., Rule 68, Sec. 2.
- [537] Ibid., Sec. 3.
- [538] Rules of Civil Procedure (1997). Rule 68. Sec. 4.
- [539] Ibid., Sec. 5.
- [540] Ibid., Sec. 6.
- [541] Ibid., Sec. 7.
- [542] Act No. 3135, Sec. 1.
- [543] Ibid., Sec. 2.
- [544] Ibid., Sec. 3.
- [545] Ibid., Sec. 4
- [546] Ibid., Sec. 5.
- [547] Act No. 1508, Sec. 14.
- [548] A.M. No. 99-10-05-0, as amended, March 1, 2001 and August 7, 2001.
- [549] Rep. Act No. 7353 (New Rural Banks' Act), Sec. 6.
- [550] Rep. Act No. 7906 (Thrift Bank Act of 1995), Sec. 18.
- [551] Pres. Decree No. 385, Sec. 1.

[552]Ibid.. Sec. 3.

[553] Ibid.. Sec. 4.

[554] Rep. Act No. 8791 (The General Banking Law of 2000), Sec. 47.

[555] Rep. Act No. 8523, Sec. 12.

[556] Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights, Sec. 2.

[557] Ibid, Sec. 3.

[558]Ibid., Sec. 5.

[559] Ibid., Sec. 7.

[560] Ibid., Sec. 8.

[561] Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights.

[562] Ibid., Sec. 11.

[563]Ibid., Sec. 13.

[564] Ibid., Sec. 14.

[565] Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights, Sec. 15.

[566] Ibid., Sec. 16.

[567] Ibid., Sec. 17.

[568] Ibid.. Sec. 19.

[569] Ibid.. Sec. 23.

[570] Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights, Sec. 24.

[571] Adm. Circular No. 12, October 1, 1985.

[572] Rep. Act No. 7691, Sec. 34.

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