

THE JDR GUIDE

Operations Manual For Judicial Dispute Resoluton (JDR)
in the First And Second Level Courts of the Philippine Judicial System
(Feb. 10, 2006 ver.)

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FOREWORD

Background on JDR. The Judicial Dispute Resolution (JDR) feature of the ADR Model Courts under the JURIS Project represents a major innovation in Philippine court procedure that is currently being pilot tested in five court sites in the country (San Fernando Pampanga, Bacolod City, San Fernando La Union, Cagayan de Oro and Baguio City).

By introducing JDR into the Philippine court system, it is hoped that mediation and conciliation at the level of the judge would contribute significantly to the resolution of mediatable cases, thereby increasing the satisfaction of litigants in the court process and also helping to decongest the dockets of the judiciary.

Objectives. This JDR Guide has been formulated to increase the understanding of the judges in the model court sites on the process of JDR, the best practices that could be adopted and also as an educational tool for judges involved in both court annexed mediation (CAM) and JDR.

How to Use this Guide. This JDR Guide is intended as a handy reference, a personal aid for the use of all judges involved in JDR. It has been divided into tabbed sections that reflect the concerns of judges. It presents the general guidelines that judges may follow for the entire JDR process as well as various issues and concerns that impinge on that process. For easy reading, the texts for Parts II, III, and IV have been written using key words, phrases, and short paragraphs and sentences.

While this Guide prescribes the fixed sequential steps for JDR, the judge is allowed some flexibility during the JDR process to apply his/her own personal style and approaches that he/she deems best under certain conditions, provided these are not in conflict with the principles of JDR.

Where appropriate, the legal basis for the JDR process and roles of the JDR judge have been cross-referenced with footnotes. The relevant issuances and documents have been reproduced in the appendix for reference. Where some aspects of the Guide are still proposals awaiting Supreme Court approval, such has been indicated.

A Note on Reflective Practice. Considering that JDR is being pilot-tested, there is a need for judges involved to continually reflect on what has been done and what is being practiced in order to refine JDR and make adjustments for increased effectiveness. To facilitate this, some writing space has been allotted on the right side of the page where the judge may write his/her insights, observations and suggestions for a better application of JDR.

II. SCOPE OF MEDIATABLE CASE FOR JDR

A. Mediatable Cases

Under AM No. 01-10-5-SC-PHILJA

1. All civil cases, settlement of estates, and cases covered by the Rule on Summary Procedure, except those which by law may not be compromised;
2. Cases cognizable by the Lupong Tagapamayapa under the Katarungang Pambarangay Law;
3. The civil aspect of B.P. 22 cases;
4. The civil aspect of quasi-offenses under Title 14 of the Revised Penal Code.

Under the revised Rule 141 on legal fees which took effect August 16, 2004

5. The civil aspect of estafa and libel

Under the proposed circular amending A.M. No. 04-1-12-SC

6. Theft of small property considered as shoplifting

B. Cases covered by the Rule on Summary Procedure

1. Ejectment and unlawful detainer/ forcible entry;
2. Money claims where the amount involved is not more than Php 100,000.00;
3. Criminal cases like violation of traffic law, rules and regulations;
4. Violation of municipal or city ordinance; and,
5. Other criminal offenses where the penalty prescribed by law for the offense charged does not exceed one (1) year imprisonment or a fine not exceeding Php 5,000.00 or both fine and imprisonment.

N.B: Items (3) and (4) although included in the list of cases under summary procedure, should not be mediated for the following reasons:

- i. There are criminal offense which cannot be compromised; and
- ii. It might be a source of corruption if mediation pushes through.

C. Cases cognizable by the Lupon Tagapamayapa under the Katarungang Pambarangay Law;

The Lupon of each Barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes.

EXCEPTIONS:

1. Where one (1) party is the government or agency or instrumentality thereof;
2. Where one (1) party is a public officer or employee, and the dispute relates to the performance of this official function;
3. Offenses punishable by imprisonment exceeding one (1) year or a fine exceeding five (5) thousand pesos (Php 5,000.00) or both;
4. Offenses where there is no private offended party;
5. Where the dispute involves real properties located in different cities or municipalities unless the parties thereto agree to submit their differences to amicable settlement by an appropriate Lupon;
6. Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangays adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate Lupon; and,
7. Such other cases or disputes that the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice

D. Quasi Offenses

Examples of quasi offenses:

1. Cases covered are acts committed by reckless or simple imprudence or negligence resulting for example in slight, less serious or serious physical injuries;
2. Imprudence resulting in damage to property; and,
3. Reckless or simple imprudence with violation of the motor vehicle law.

III. THE PROCESS OF JUDICIAL DISPUTE RESOLUTION (JDR)

START The actual JDR process starts from the time the Branch Clerk of Court receives the Mediator's Report of a "Not Settled" mediation.

END The end of the JDR process consists of the disposition of the case after the JDR, either in a judgment approved by the court through compromise agreement, or the referral of the case to the Office of the Clerk of Court, for raffle to the trial judge, for purposes of pre-trial proper and trial.

A. Preparing for JDR

1. Case management during CAM

- 1.1. Cases that are well managed during court annexed mediation would result in fewer cases going to JDR.
- 1.2. **ORIENTATION** The judge should orient the parties on the function of court annexed mediation and JDR prior to referral to the PMC, especially in cases where the lawyers or the parties seem not to be aware of the referral procedure.
- 1.3. **CHECKLIST** prior to referral of the case to CAM
 - pre-trial briefs submitted by parties?
 - Mediation fees paid?
 - Other cases related to the case at bar in other courts, which may affect the mediation/ JDR process?
- 1.4. **DISCLOSURE OF OTHER CASES** The judge may utilize the sample PMC Form 1-A which serves several purposes:
 - Refers the case to the PMC for mediation
 - Requires the parties to disclose other cases which are pending and which are related to, or will materially affect, the ongoing mediation. (See Sample Form PMC Form 1-A)
- 1.5. **BRIEF ON CAM AND JDR** The judge may also make available a brief on CAM/JDR for the information of lawyers seemingly unaware of the process. (See Sample Form No. 4)

1.6. **SUGGESTION:** Judge may also schedule the JDR at some future date (e.g., 65 days after the first appearance at the PMC, in order to secure their presence and eliminate the need for notice for JDR conference.

1.7. **ROLE OF THE JUDGE DURING CAM:**

- exercise supervision over the case by ensuring that the mediation is terminated not later than 60 days from the referral date.
- act on motions or requests for extension of the time to mediate from 30 to 60 days;
- impose the necessary sanctions if warranted upon the recommendation of the mediators, for parties who are absent during mediation proceedings.

Sanctions allowed under Rule 18 of the Rules of Court consist of a) dismissing the suit for failure of the plaintiff to appear; or b) allowing the plaintiff to present his evidence *ex parte* if the defendant fails to appear in mediation conferences.

2. Receiving the Case for JDR

2.1. **RETURN OF THE CASE.** The PMC returns the case unsettled to the judge, and the Branch Clerk of Court informs the judge and schedules it for JDR.

2.2. **NOTICE** to parties should be given (if one has not be given during the referral to CAM) for the JDR conference (see Sample Form No.2)

2.3. **PREPARING FOR JDR** Review files, pre-trial briefs and prepare questions (may use conflict map worksheet showing sides of parties on issues, their interests, the options, and objective criteria).

B. STARTING THE JDR CONFERENCE

1. Before Start of JDR

- Wear regular civilian clothes, not judge's robe;

- Choose venue where confidentiality may be preserved not open to the public (chamber or courtroom; ideal is a settlement conference room);
- Sit at lawyer's table if in the courtroom;
- Seat parties next to you (make parties and lawyers comfortable with friendly/relaxing atmosphere).

2. Opening Statement

The opening statement has the following purposes or objectives:

- a) Informing the parties on what the JDR process is all about, what is the role of the judge and the parties (and their counsels) and how long it would take;
- b) Provide an opportunity for the parties to ask questions on things that may be unclear on the process;
- c) Eventually, put the minds and heart of the parties at ease in order that the JDR process could be more productive and meaningful

The opening statement may contain these points:

- Introduce himself/ herself, welcomes them to the court and brief parties on JDR especially on confidentiality and time frame (60 days for RTC, 30 0days for MTCC);
- Explain role of judge as a mediator, conciliator, neutral evaluator;
- Emphasize the role of the parties in seeking the solutions for their dispute; and the assisting role of the lawyers in such a search;
- Explain JDR process and parts they need to know in advance like caucusing, if caucusing will be used;
- Explain advantages of JDR and disadvantages of a full-blown trial (i.e. different trial judge);
- Stress that compromise agreement is final and executory;
- Inform that parties may settle on their own and court may approve;
- Explain role of parties and authority of parties to make decisions (spokesperson needed if litigants are many);

- Ask parties if they have any questions.

(Please refer to the sample opening statement found in the annex)

NOTES ON OPENING STATEMENT

NOTES ON OPENING STATEMENT

C. JDR Proper

1. Judge acts as the mediator, conciliator and neutral evaluator as the conditions may warrant, in order to effect a settlement of the case.
2. Taking of notes is strictly limited for the personal consumption of the judge and should not form part of the records of the case, to preserve confidentiality.
3. Be reminded of the timelines: 60 days for the second level courts and 30 days for the first level courts.
4. **OPTION WITH LAWYERS.** If the judge feels that the lawyers are not fully convinced about the settlement process but there is a great chance of settlement, s/he may want to talk to the parties first without their lawyers.
5. **SUGGESTED PROCESS:**
 - Opening Statement
 - The plaintiff (preferably, and in his own words) would tell their side of the story.
 - The defendant (preferably, and in his own words) would tell their side of the story
 - Based on their stories, the judge would try to summarize the main issues in contention, and try to probe the various interests of the parties at play.
 - The judge could facilitate the creation of options that would provide solutions to the dispute, or even actively propose solutions or options.
 - Talking to each party separately (caucus) may be employed if the parties seem to be reaching an impasse.

D. SETTLEMENT OF THE CASE THROUGH JDR

1. Parties immediately comply with the agreement

This usually happens if the dispute involves a money claim and the defendant opts to pay the sum in full at once. In this event, the parties through their counsel may choose to submit a manifestation on the satisfaction of claims and the mutual withdrawal of the complaint and counterclaim. The judge could then dismiss the case based on this fact.

2. Parties agree to settle and comply in the future

If the settlement is for compliance at some future date, then a compromise agreement is secured. The following steps may be followed:

a. **Drafting** of a compromise agreement by the parties, with the assistance of their lawyers;

b. Prior to the signing, the judge may opt to **explain the contents** to the parties and make sure that they understand what they are signing, to obviate repudiation at some future date;

c. **Signing** of the compromise agreement and the filing of a joint motion to approved the compromise;

d. Judge **approves** the compromise agreement and renders a judgment based on compromise.

e. Copy of the judgment based on compromise is sent to the PMC for statistical purposes.

E. NO SETTLEMENT OF THE CASE AFTER JDR

1. Judge issues an order returning the case back to the Office of the Clerk of Court for raffling;
2. OCC raffles the case to another judge who will conduct the pre-trial proper and trial, until the case is decided.
3. COPY TO PMC. A copy of the order referring the case to the OCC for raffle should be furnished the PMC for statistical purposes.

IV. TECHNIQUES FOR A SUCCESSFUL JDR ¹

COMMUNICATION

- **Presentations by the parties:** Each party makes a brief presentation of the events. This presentation is made without questions, examination/cross-examination or interruptions.

It is essential for this presentation to be made by the parties and not the lawyers. The judge may, as a result, identify the priorities, interests and values of the parties through their presentations, as well as possible solutions. A presentation by the lawyers would be more legal and informal and tend toward argument rather than finding solutions. A party who is truly unable to express him/herself may be represented by his/her lawyer. But generally, if you reassure the individual, he/she will be able to proceed with his/her presentation.

The presentations are generally brief, lasting 15-20 minutes each.

This is an opportunity for the judge to identify the perceptions of each party as well as their interests, needs and values, by actively listening to each presentation.

The judge may, at this time, note the elements to be discussed and identify the priorities of the parties in order to structure the subsequent discussions.

Either party may go first. It is generally more logical to start with the party that initiated the legal proceedings, but there is nothing to stop you from starting with the other party. It is interesting to ask them to decide among themselves who will go first.

- **Explanations:** The judge attempts to have the parties explain **why** such an event or occurred or they reacted in such a way. The more information you have, the more solutions you will be able to identify.
- **Determining the problems to be resolved:** It is at this time, before you undertake the actual negotiations, that you must work with the parties to identify the **common** problem(s) to be resolved. Writing them down on a board or a flip chart helps depolarize the debate.
- **Developing options:** Before starting to negotiate the solutions, you must draw up a list of all the options available. During these brainstorming

¹ Taken from AMICABLE DISPUTE SETTLEMENT CONFERENCE (Primer prepared by the Superior Court of Montreal, Province of Quebec)

sessions, it is often interesting to make a list of all of the options, even the wildest ones, without immediately starting the discussion. Other options, sometimes the best, often result from combining the wild and the traditional options.

The parties and the lawyers will help the judge. Sometimes, the entire range of options available must be covered and then those that are unacceptable for one party or another can be eliminated.

Use flip chart boards and other techniques to clearly identify the options.

NEGOTIATIONS

- **Discussions of the options:** This stage involves analyzing each option, eliminating it or retaining it, and coming up with new options based on those that have been discussed. It is easier to work with the entire group at this stage, in order to come up with as many options as possible.

Once the true issues that are of concern to the parties and divide them have been discussed, it is “easier” to find the options that will satisfy both parties.

- **Neither law nor jurisprudence:** At this point, the lawyers frequently tend to cite law or authorities. An effort must be made to stick to the solutions of the facts, the practical solutions proposed. This is not a trial, before a court, which will settle a legal issue. Legal discussions must be avoided.
- **The caucus:** Holding a caucus meeting may be more beneficial than a full meeting if it is a matter of agreeing to a sum of money to settle the dispute. As usual, the party making the offer offers too little and the party receiving the money demands too much. In a caucus, the defenses fall. Return to the meeting of the entire group as quickly as possible.
- **Flexibility and creativity:** The cooperation of lawyers who clearly understand their role serves to develop new options, which are both more creative and more acceptable.

It should be noted that the legal and extra-legal fees involved in a trial, the cost of experts and the interest and additional compensation granted by a judgment could make the difference between a failure and a settlement.

Breaks taken during the JDR session are a good time to encourage discussion between the parties and their lawyers. Moreover, if the discussion goes well, the break may be extended. This is often a good

opportunity to remind the parties about their commitment to find solutions that are focused on the future rather than returning to the past problems.

AGREEMENT

- **Complete agreement**: Make sure that **all** of the details have been settled. In the case of a sum of money, does it include interest, fees, when is it payable, in what form, what happens in the event that it is not paid, etc.
- **Apology**. In the case of an apology, have it written and approved immediately; indicate the date time and frequency of publication, etc.
- **Clear agreement**: Before asking the lawyers to draw up the agreement, gather all of the parties and their lawyers in a meeting of the full group and repeat each of the elements of the agreement, out loud, to make sure that all of the elements are clear.
- **Written agreement**: Ask the lawyers to draft the agreement immediately. In this way, everyone will be familiar with and approve the agreement, ambiguities will be eliminated or explained and the agreement can be signed. The judge may return to his/her office while the agreement is being drafted in the case of a long or complex text.
- **Signed agreement**: Once the agreement has been drafted, read it out loud, make sure that there are no ambiguities, that everyone understands it and that they still agree to it, answer questions and have the parties and their lawyers sign it.

The judge does not sign the agreement because he/she is not a party to it. He/she simply acts as a judge/conciliator.

The judge may be tempted, at the end of a long day of negotiations, to let the lawyers draw up the out-of-court settlement at a later date. **It is preferable to have the agreement drawn up the same day**, even if it has to be reworked. Everything will be fresh in the minds of the parties and the terms have just been negotiated, which make it all the easier to draft the agreement.

Even if the parties want to think about the agreement overnight before signing it, it is preferable to write it up the same day, and have it signed later.

When is neutral evaluation employed?

Neutral evaluation is employed as a last resort when the parties could not reach a settlement and when there is a likelihood that the parties would change their minds if neutral evaluation is resorted to. It is an effective tool in making parties consider the option of settlement rather than pursuing the case in court.

V. SITUATIONS, STRATEGIES AND OPTIONS**A. Problems with SPAs, specially juridical persons**

Individuals – Discourage the use by individuals of an SPA, so that they could come personally and participate in the settlement of the case. An exception would be persons of frail health, old age or similar conditions.

Corporations – A board resolution is necessary to determine the extent of the authority of the representative. Before the JDR, double check the authority of the representative and impress upon him/her that the court will require him to make certain decisions under his authority, and will not tolerate delays, such as asking the President or the Board again their go-signal for settlement proposals or that s/he is only authorized to compromise up to a certain amount. Advise the representatives of the possible sanctions arising from misrepresentations in the SPA.

Client cannot be reached – Judicial discretion should be exercised. Options are:

- Extend the period to allow more time to secure the SPA;
- Allow the transmission of a fax letter of authority from the client to the court room on the condition that the formal SPA should follow within a certain timeframe;
- Contact parties through phone, speakerphone or teleconferencing.

Lawyers wants to go back to his client for consultation despite the SPA

- Ask the lawyer to explain himself
- Threaten the lawyer with contempt of court for having misrepresented himself to the judge as being fully authorized
- Make sure that the SPA is amended to include full authority, without any limit or ceiling

B. Issues on Confidentiality

Confidentiality during the proceedings – The judge conducts the JDR usually alone, and takes notes for his personal consumption. To protect himself in contentious cases, the judge may allow a court staff to be present, who is also bound by confidentiality.

Disposal of the judge's notes- The judge's notes shall not form part of the records of the case. However, if and when agreement is reached, the judge may ask the parties to sign his notes, if the compromise agreement for some reason could not be signed and sealed immediately. These notes could then be the basis for the more formal compromise agreement.

Confidentiality during neutral evaluation – It is suggested that neutral evaluation be done in caucus, so that the other party may not be influenced by the non-binding evaluation of the judge.

Presence of Third parties during the JDR

As much as possible, third parties or even relatives should be excluded from the JDR, because it would be quite difficult to bind them to the confidentiality principle.

C. Managing the JDR Process

One party or both parties wants to go straight to JDR (during the initial hearing for referral to CAM)

- Only if both parties agree
- Allow when there are extraordinary circumstances.
- Judicial discretion because time is of the essence.

Difficult Parties and Physical violence/ Highly charged emotional situation

Options:

- Cite for contempt.
- Ask for sheriff's presence.
- Bring parties back to agreements/ground rules.
- Manage physical space (between parties, between judge and parties).

- Ask parties to talk through judge/moderator.
- Ask for recess to defuse the situation.

During the JDR, parties agree to settle at a certain time but deadline not met (e.g., parties need more time to undertake accounting procedures)

- Allow extension, if reasonable.
- Threaten the parties to declare a non-settlement and send the case for raffling and trial

One party is very old or disabled and cannot go to court

- The disabled party may execute an SPA in favor of his counsel or relative
- Go to the party's residence (at judge's personal cost).
- Hold sessions at disabled-friendly locations.

Refusal of parties to actively participate in JDR

- Draw out reasons of parties for not actively participating
- If lawyers are stubborn, talk to clients.
- If clients are stubborn, a caucus may be useful in drawing out their reasons for refusal to participate

A self-represented party has mental health problems/issues (e.g. obvious physical signs, off-tangent responses)

- Adjourn and ask party to come back with a family member.
- Appoint counsel de officio/guardian.
- Tap IBP legal aid.
- Summon director of health, city/provincial health officer (Rule 101) through prosecutor, to initiate proceedings for the hospitalization of insane persons (in extreme cases only)

What to do with pending incidents prior to JDR

Often, the judge is faced with pending incidents prior to pre-trial. The most common pending incidents would be requests for temporary restraining

orders, habeas corpus, application for support pendente lite, motions to dismiss and the like. The general rule is that the parties should come to JDR with all the preliminary issues already resolved. If there are issues of jurisdiction, then these should be resolved first.

Bringing in technical experts to assist the judge during JDR

As a general rule, the judge controls the procedure for the disposition of the case, and if an expert (such as accountants, geodetic surveyors, appraisers, doctors) could assist in the JDR, and the parties agree, then the decision is left to the sound discretion of the judge.

Fees of the technical experts may be split even among the parties.

How to handle information obtained in a caucus which is critical for the resolution of the dispute

Confidentiality rule may become an issue. Suggestion: ask party to disclose the information to the other party depending on how critical the information is; if party refuses, then ask party why he/she does not want to disclose to the other party. If the party wants to share this information only to the judge and not to the other party, then this has to be respected and JDR proceeds on this basis.

Role of lawyers of parties

- Lawyers should generally assist the judge by explaining to their clients the role of JDR and efforts at settlement
- Give lawyers some homework after every JDR session such as preparation of pertinent documents and preparing drafts of terms of settlement to be presented at the start of the next JDR conference.
- Remind them of A.M. No. 04-3-05-SC on the Guidelines for Parties Counsel in Court-Annexed Mediation Cases dated 9 March 2004.

Referral of cases to JDR during mid-trial

Under the proposed guidelines, cases undergoing trial may be referred to JDR only upon joint motion of the parties. In this case, the trial judge will act as the JDR judge. Strictly speaking, this can no longer be called JDR and the judge cannot exercise his discretion for an early neutral

evaluation, lest s/he be considered as biased or having pre-judged the case.

JDR judge as the trial judge also

The JDR judge may continue to try the case after failed JDR, as long as the parties execute the proper waiver. Please see Form No. 5 [Waiver on the Right to Re-assignment of Case for Purposes of Trial].

D. Sanctions

Considering that JDR is still part of pre-trial, the sanctions allowed under Rule 18 of the Rules of Court are as follows:

“Sec. 5 Rule 18: Effect of failure to appear- The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for the 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.”

Sanctions allowed under AM No. 04-1-12-SC (Enhanced Pre-Trial Proceeding through Conciliation and Early Neutral Evaluation) dated January 20, 2004 are as follows:

“In addition, the pre-trial judge may require the non-appearing party to reimburse not exceeding treble the costs incurred by the appearing party including attorney’s fees for that day. A party who appears without the required authorization may similarly be sanctioned”.

E. Repudiation of agreements

- If the agreement has not yet been approved by the judge, require the party who intends to repudiate to file a motion and to prove the fraud, accident, mistake or excusable neglect that has occurred in the process of securing the agreement
- If the agreement has already been approved by the judge, then the agreement is already final and executory, and one option for the party is to file a petition for relief from judgment based on Rule 38, within sixty days after the petitioner learns of the judgment and within six months from the time the judgment was entered.

TIPS TO AVOID REPUDIATION

- Judge should not be perceived to be “railroading” or “forcing the issue”
- Allow the parties to choose the format and language that best expresses their desire to settle.
- Ensure that all the aspects of the agreement conform with law, public policy, morals and good customs.
- Make sure all parties and counsels understood and agree with the agreement by reading it aloud and asking if there are any questions.

VI. ETHICS

Some ethical Issues/considerations which should be dealt with carefully:

- A. Illegal means employed by parties brought out during JDR and will have implications on the confidentiality rule (e.g., disclosure that a certain document has been procured through forgery)
- Should the judge just continue with JDR and let executive agencies concerned deal with it?
- B. Unenforceable issues involving illegal activities. (e.g., a land survey has been purposely made to grab a portion of land not previously owned by one party)
- May go ahead with mediation rather than let violence erupt between parties.
- C. Disclosure of information gathered in caucus with legal and moral dimensions to the other party.
- Should there be full disclosure?
 - Under what circumstances?
 - What should be the conditions for disclosure?

D. Family issues, including euthanasia (where the members of the family are considering “pulling the plug” of the respirator of a dying family member, just so to facilitate some property transactions)

E. Conflict of interest based on relationship.

- Should judge inhibit himself/herself from cases involving friends?
- Should the judge just disclose the relationship to all parties concerned?

F. Acceptance of gifts.

- Gifts are covered by the Anti-Graft and Corrupt Practices Act. (Note: There may be a need for the mediators to be covered since they are not government employees but are officers of the court.)

G. Violation of confidentiality rule.

- JDR judge should not share information or subtly influence the trial judge.
- Friends/relatives of parties who are asked by parties to be present, especially in family cases, are covered by this rule.
- Impose sanction/s for violation of this rule.

VI. SOCIAL CONTEXT ISSUES

A. Ethnic/Cultural Concerns

- Maintain sensitivity to local customs.
- Be sensitive to the traditional or indigenous modes of dispute resolution (tribal council, elders) and indigenous concepts of justice, fairness and equity and see if they could be reconciled with the formal legal system

B. Gender

- Sensitivity in the use of words.
- Not only discrimination against but over-sympathy for female parties.

C. Religion

- Sensitivity to and respect for religious beliefs and practices.

D. Social/Economic/Family

- Explore the other issues/deep-rooted problems that have a bearing on the case.

E. Power

- Deal with power imbalance – rich and poor, e.g. more time for poor tenants to move out and look for another dwelling in ejectment cases.
- During JDR exclude the lawyers who are media magnets.
- Judge should always be in control of his/her court.
- Impose sanctions for aggressive parties.

F. Language

- When parties insist on using their respective languages – judge may become the interpreter.
- If judge does not speak the language that has to be interpreted, ask the capable court staff to interpret.
- Judge can use the local language while the lawyers may still use English.

VIII. DATA GATHERING AND PERFORMANCE MANAGEMENT

A. Statistical Reporting - The Philippine Mediation Center shall be responsible for collating the information on settled and not settled JDR cases. What is indispensable is that the courts should regularly provide copies of the following documents to the PMC:

- Copy of the judgment based on compromise – to record settled cases for JDR
- Copy of Order referring the case to OCC for raffling/ trial – to record not settled cases for JDR.

B. Performance Management – Guidelines on the crediting of settled cases:

- Cases settled by the JDR judge shall be counted as decided cases in his monthly report
- Cases settled by the pair of the commercial court judge shall be counted as decided cases in the monthly report of the pair judge.
- Cases settled by the family court judge through JDR shall be counted as decided cases in the monthly report of such judge.

Improving the skills of judges in JDR

- Judges may want to share learnings and strategies in settling cases by including JDR as a fixed item in the agenda for regular meetings.
- Judges at the MTCC may want to sit in the JDR of RTC judges and vice versa if only to observe and learn skills from their fellow judges.

HELP DESK AT PHILJA FOR JDR

For queries and requests for assistance on
Judicial Dispute Resolution, write or call the following :

Judicial Dispute Resolution Focal Person
Philippine Judicial Academy, Centennial Building, Padre Faura Manila
Phone No. 632-552-9525