

Republic of the Philippines
Supreme Court
Manila

Sirs/Mesdames:

Quoted hereunder, for your information, is a resolution of the Court En Banc dated

August 29, 2006

“A.M. No. 04-1-12-SC-PhilJA.- Re: PhilJA Resolution No. 06-22, re: Revised Guidelines for the Implementation of an Enhanced Pre-Trial Proceeding under the JURIS Project, as Amended.- The Court Resolved, upon the recommendation of the PHILJA Board of Trustees, to **approve** the Revised Guidelines for the Implementation of an Enhanced Pre-Trial Proceeding under the JURIS Project, as amended, to wit:

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

TO: THE REGIONAL TRIAL COURTS AND MUNICIPAL TRIAL COURTS OF CITY OF SAN FERNANDO AND PAMPANGA, BACOLOD CITY AND NEGROS OCCIDENTAL, BAGUIO CITY AND BENGUET, CAGAYAN DE ORO AND MISAMIS ORIENTAL AND SAN FERNANDO CITY AND LA UNION

SUBJECT: REVISED GUIDELINES AMENDING A.M. No. 04-1-12-SC FOR THE IMPLEMENTATION OF AN ENHANCED PRE-TRIAL PROCEEDING UNDER THE JUSTICE REFORM INITIATIVES SUPPORT (JURIS) PROJECT.

I. Explanatory Note

Despite the priority given Rule 18 of the Rules of Court, as amended, for the amicable settlement of cases, most judges go through the function of exploring settlement perfunctorily for various reasons, including fear of being disqualified if he goes into the process more intensively. Thus, it is the intention of the JURIS Project to restore the importance of this priority and install innovative procedures that will remove such apprehension.

Two model courts have already been set up under JURIS in Bacolod and San Fernando, Pampanga, and more model courts will be set up in Benguet, La Union and Cagayan de Oro, to pilot test court-annexed mediation (CAM) and judicial dispute resolution (JDR). In JURIS model courts, mediatable cases are referred to CAM for mediation under accredited mediators in the Philippine Mediation Center (PMC) and subsequently referred to JDR for further mediation by the judges if it is not resolved under CAM. If the case is still not settled in JDR, the case is transferred to the pairing court to proceed with trial

In sum, these revised guidelines make the following amendments:

- a. Replace the use of the pairing system in favor of a raffle for the resumption of the judicial proceeding after JDR has not succeeded;
- b. Change the nomenclature of the pre-trial judge who shall be called the JDR judge. The judge conducting the JDR is called the JDR judge instead of pre-trial judge because under the revised guidelines, pre-trial proper is resumed after JDR, but this time, to be conducted by the trial judge instead of the judge who conducted JDR;
- c. Referral to JDR even after conclusion of the pre-trial and during the trial itself;
- d. JDR judge may preside over the trial proceedings upon joint request of both parties; and
- e. Impose a limited period for settlement of JDR cases of thirty (30) days for first level courts and sixty (60) days for regional trial courts. These periods may be extended upon the discretion of the JDR judge.
- f. Where settlement on the civil aspect has been reached in criminal cases covered by mediation but the period of payment in accordance with the terms of settlement exceeds on (1) year, the case may be archived ***upon motion of the prosecution with concurrence of the private complainant and approval by the judge.***
- g. The inclusion of the civil aspect of theft, under Art. 308 of the Revised Penal Code, as part of the cases for referral to mediation.

II. Mandate

After the date specified by PHILJA for the effectivity of the guidelines and following completion of the orientation for judges in JDR procedures and their training in mediation, conciliation and neutral evaluation, judges in all model court sites and their adjacent areas shall be authorized to conduct JDR under the

JURIS Project in accordance with the guidelines set forth herein after CAM has not succeeded.

III. Concept

The goal of JURIS in JDR is to strengthen conciliation in the model court sites during the pre-trial stage in order to expedite the resolution of cases and thereby help decongest court dockets by utilizing the following models:

- (1) JDR judge as mediator;
- (2) JDR judge as conciliator;
- (3) JDR judge as early neutral evaluator;
- (4) A combination of any of the above; and
- (5) Such other models as the Design and Management Committee may find adaptable to the local setting.

As a mediator and conciliator, the judge facilitates the settlement discussions between parties and tries to reconcile their differences. As a neutral evaluator, the judge assesses the relative strengths and weaknesses of each party's case and makes a non-binding and impartial evaluation of the chances of each party's success in the case. On the basis of his neutral evaluation, the judge persuades the parties to reconsider their prior reluctance to settle their case amicably. The entire process comprises JDR.

IV. Procedure

Judicial proceedings shall be divided into two stages – (1) from the filing of a complaint, to the conduct of CAM and JDR during the pre-trial stage, and (2) pre-trial proper to trial and judgment. The judge to whom the case has been originally raffled shall preside over the first stage. He shall be called the JDR judge.

Parties will be more spontaneous once they are assured that the JDR judge will not be the one to try the case. As such, the general rule is that the JDR shall not preside over the trial of the same case when mediation did not succeed.

1. Multiple Sala Court – If the case is not resolved during JDR, it shall be raffled to another branch, where the rest of the judicial proceedings up to judgment shall be held. The judge for that stage shall be called the trial judge. Any incidents or motions filed during the first stage shall be dealt with by the JDR judge at his discretion.
2. Single Sala Court – In this situation, the case shall be transferred for **mediation** to the nearest court (or pair court, if any), since only mediation is involved. Whatever the result of the **mediation** may be, the case is always

returned to the originating court for appropriate action – either for the approval of the compromise agreement or for trial, as the case may be.

3. Family Courts – Due to the special nature of a family dispute for which specialized family courts have been designated, parties may file joint motion requesting that the case be tried by said special court despite the judge thereon having been the JDR judge. However, if there is another family court in the same JURIS site, the trial judge shall be that of the family court which did not conduct proceedings.
4. Commercial Courts – The JDR of commercial disputes shall be conducted by the pair judge of the commercial court. Where JDR does not succeed, the judge of the commercial court shall be the trial judge.
5. Referral to CAM – During the first stage as defined above, referral of the dispute for mediation shall be governed by existing issuances and circulars issued by the Supreme Court.
6. Duration of JDR – For the first level courts, JDR shall be for a period not exceeding thirty (30) days from the time the parties first appeared for JDR. For the second level courts, JDR shall be for a period not exceeding sixty (60) days. However, a longer period may be granted upon discretion of the JDR judge if there is a high probability of settlement.
7. Archiving – In the criminal cases covered by mediation, where settlement on the civil aspect has been reached but the period of payment *in accordance with the terms of settlement* exceeds one (1) year, the case may be archived *upon motion of the prosecution with concurrence of the private complainant and approval by the judge.*
8. JDR During Trial – Cases may be referred to JDR even during the trial stage upon joint motion of the parties. If the motion is granted, the JDR shall be conducted by the pairing judge in multiple sala courts, or in single sala courts, by the nearest court (or pair court, if any) regardless of the level of the latter court. Whatever the result of the JDR may be, the case is always returned to the originating court for appropriated action – either for the approval of the compromise agreement or for trial, as the case may be.
9. Any Settlement Period declared by the Supreme Court is understood to include JDR and, therefore, half of all cases referred to mediation shall be for JDR settlement. The procedure shall be as stated in Section 8 above, except that no motion is required from the parties.

V. Confidentiality

To safeguard the confidentiality of mediation proceedings, the JDR judge shall not pass on any information obtained in the course of conciliation, early neutral evaluation, or mediation to the trial judge or to any other person. All JDR conferences shall be conducted in private. The JDR judge may, however, confer in confidence with the mediator who previously mediated the case, merely for the purpose of determining unresolved issues.

VI. Coverage

This pilot-test shall apply to the following cases:

- (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 Lupon Tagapamayapa and those cases that may be referred to it by the judge under Section 408. Chapter VII of the Republic Act No. 7160, otherwise known as the 1991 Local Government Code;
- (3) The civil aspect of BP 22 cases;
- (4) The civil aspect of quasi-offenses under Title 14 of the revised Penal Code; and
- (5) The civil aspect of *Estafa*, Libel and Theft.

VII. Sanctions

A party who fails to appear for a mediation or JDR conference may be imposed the appropriate sanctions as provided for in Rule 18 of the rules of Court and the relevant issuances of the Supreme Court. A recommendation to impose sanctions shall be made to the JDR judge by the mediator before whom the absence took place, upon the request of the present party. If all parties are absent despite due notice, the mediator shall *motu proprio* recommend the imposition of proper sanctions upon all of them, including dismissal of the case. Among others, the JDR judge may require the non-appearing party to reimburse the appearing party his costs, including attorney's fees for that day, up to treble the amount incurred payable on or before the next mediation session.

A party who appears without the required authorization may be similarly sanctioned.

VIII. Settlement

If settlement is reached, the parties, with assistance of their counsel, shall draft the compromise agreement for approval of the court by judgment upon a

compromise. Where compliance with the compromise agreement is forthwith made of the claim is otherwise settled, the parties shall instead submit a satisfaction of claims or mutual withdrawal of the complaint and counterclaim upon which the Court shall enter an order dismissing the case.

Corona, J., on leave. (86)

Very truly yours,

MA. LUISA D. VILLARAMA
Clerk of Court