

**Republic of the Philippines**  
**Supreme Court**  
**Manila**

Gentlemen:

*Quoted hereunder, for your information, is a resolution of the Court En Banc dated  
20 January 2004*

“A.M. No. 04-1-12-SC.- Re: Proposed Guidelines for the Implementation of An Enhanced Pre-Trial Proceeding Through Conciliation and Neutral Evaluation. The Court Resolved to (a) **NOTE** the Letter dated 19 January 2004 of Chancellor Ameurfina A. Melencio Herrera, Philippine Judicial Academy, (b) **APPROVE** the Proposed Guidelines for the Implementation of an Enhanced Pre-Trial Proceeding thru Conciliation and Neutral Evaluation, as amended, to wit:

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
MANILA

TO: THE REGIONAL TRIAL COURTS OF PAMPANGA IN SAN FERNANDO  
AND OF NEGROS OCCIDENTAL IN BACOLOD, AND THE  
MUNICIPAL TRIAL COURTS IN THE CITIES OF SAN FERNANDO  
AND BACOLOD

SUBJECT: GUIDELINES FOR THE IMPLEMENTATION OF AN ENHANCED PRE-  
TRIAL PROCEEDING THROUGH CONCILIATION AND NEUTRAL  
EVALUATION

**I. Background**

The Justice Reform Initiatives Support Project (JURIS) is a five-year bilateral project funded by the Canadian International Development Agency (CIDA) which seeks to support the implementation by the Supreme Court of the Philippines’ Action Program for Judicial Reform (APJR).

The goals of JURIS are to strengthen and promote more effective use of alternative dispute resolution (ADR) mechanisms, improve access to justice and support advocacy for reform. In connection with the effective use of ADR, the approach which JURIS has adopted to strengthen ADR involves a bold and ambitious plan to showcase new ADR approaches in up to 14 model court sites in the Philippines. There will initially be 2 model court sites set-up in Pampanga and Bacolod by November 2003.

## **II. Concept**

The Project intends to strengthen conciliation at the pre-trial stage as a means of expediting the resolution of cases and decongesting court dockets, after court-annexed mediation has failed, by utilizing the following models:

The use of the pre-trial judge who will conciliate between the parties.

The use of the pre-trial judge as an early neutral evaluator.

The use of the pre-trial judge as mediator.

A combination of any of the above.

Such other systems as the Design & Management Committee may find acceptable to the local set-up.

### **II.1 Concept of Conciliator Judge**

Despite the priority position in the Rules of Court for settlement and referral to ADR during pre-trial proceedings, most judges go through the function perfunctorily for various reasons, including fear of being disqualified if he goes into the process more intensively, and the possible failure of his efforts. It is the intention of this Project to restore the importance of this priority and at the same time to remove such apprehension.

### **II.2 Concept of Judge as Neutral Evaluator**

After mediation has failed and the case is returned to the court, the Pre-trial judge, pursuant to the parties' Pre-trial briefs, will define and simplify the issues, inquire into the necessity or desirability of amendments to the pleadings, strongly urge the parties to make stipulations and admissions of fact and documents, require the presentation and marking of all documentary exhibits, disclose the number and names of witnesses and the substance of their respective testimonies, and determine the propriety of rendering judgment on the pleadings or summary judgment. After the judge has gone through these aspects of the pre-trial, he will ask the parties or their counsel to present a summary or brief of their case to him as they wish but under a time limit. Thereafter, he will assess the relative strengths and weaknesses of each party's case and make a non-binding and impartial evaluation or assessment of the chances of each party's success in the case. On the basis of his neutral evaluation, he will persuade the parties to reconsider their prior reluctance to use mediation towards a compromise agreement.

### **II.3 Concept of Judge as Mediator**

In the event that the parties agree to reconsider their initial reluctance to mediate, the judge shall facilitate settlement using all his skills as mediator.

### **III. Procedure and Need for Pairing System**

Under the above concepts, judicial proceedings are divided into two stages – (1) from the filing of a complaint to the pre-trial stage (pre-mediation and post-mediation stages), and (2) trial and judgment stage. The judge to whom the case has been raffled presides over the pre-trial stage and the pairing judge presides over the trial stage. The pairing system shall be as provided for in existing Court Orders/Circulars.

The judge presiding over the first stage (pre-trial judge) shall observe Section 2 (a) of Rule 18 of the rules of Court. In issuing an order to file pre-trial brief he shall also require a statement of undisputed facts, the proposed issues for resolution, and a synopsis of the law and jurisprudence relied upon, and, in cases covered under Section IV hereinbelow, order the parties to appear for mediation at the PMC for mediation proceedings. If mediation fails and the case is referred back to the pre-trial judge, he shall act as a conciliator, neutral evaluator, mediator, as explained above.

If settlement is still not reached, a pre-trial order shall be issued to include a referral of the case to the pairing judge for trial (trial judge). It is believed that the parties will be freer and more spontaneous once they are assured that the conciliator judge/neutral evaluator will not be the one to try the case.

#### **III.1 Confidentiality**

The pre-trial judge is bound to observe the confidentiality of proceedings and 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.

### **IV. 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 Lupong Tagapamayapa and those cases that may be referred to it by the judge under Section \_\_, Chapter VII of Republic Act No. 7160, otherwise known as the 1991 Local Government Code;
- (3) The civil aspect of BP 22 cases; and
- (4) The civil aspect of quasi-offenses under Title 14 of the Revised Penal Code.

### **V. Sanctions**

A party who does not appear for mediation or pre-trial in violation of the order of the pre-trial judge or in accordance with the scheduled mediation conferences, shall be imposed the appropriate sanctions as provided for in Rule 18 of the Rules of Court by said judge. 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.

**V. Settlement**

If settlement is reached at the post-mediation pre-trial stage, the pre-trial judge shall ask the parties, with the assistance of their counsel, to draft the compromise agreement for submission to and approval by the court for a judgment upon a compromise.

*However, the parties may submit to the Court a satisfaction of claims and mutual withdrawal of the complaint and counterclaim upon which the Court shall enter an order dismissing the case.*

Very truly yours,

**LUZVIMINDA D. PUNO**  
Clerk of Court

By:

**(SGD) MA. LUISA D. VILLARAMA**  
Assistant Clerk of Court

Hon. Ameurfina A. Melencio Herrera (x)  
Chancellor  
Philippine Judicial Academy  
3<sup>rd</sup> Flr. Centennial Building  
Supreme Court