



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 108-2010

TO : ALL JUDGES AND CLERKS OF COURT IN THE FIRST AND SECOND LEVEL COURTS

SUBJECT : GUIDELINES FOR THE TEMPORARY REPLACEMENTS OF CLERKS OF COURT IN THE HANDLING OF CASE/S FROM WHICH THEY ARE DISQUALIFIED UNDER SECTION 1, RULE 137 OF THE RULES OF COURT, AS AMENDED

The *Court En Banc*, in a Resolution dated June 3, 2008, in A.M. No. 08-4-1-SC, resolved to amend Section 1, Rule 137 of the Rules of Court, to include the disqualification of clerks of court, to wit:

“Sec. 1. *Disqualification of Judges.* - No judge or *judicial officer* shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of the review, without the written consent of all parties in interest, signed by them and agreed upon the record.

The above disqualification shall likewise apply to all clerks of court, assistant clerks of court, deputy clerks of court and branch clerks of court in all court levels insofar as relevant to them in the performance of their respective functions and duties.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.”

To implement the aforementioned amendment, the Honorable Chief Justice Renato C. Corona has approved the guidelines for the temporary replacements of clerks of court in the handling of the particular case/s from which they are disqualified under Section 1, Rule 137 of the Rules of Court, as amended. These guidelines are as follows:

(1) The clerks of court in all the branches of the first and second level courts shall conduct a screening of cases now pending before their respective courts to verify and report in writing to their respective presiding judges, if there are grounds for their disqualification in regard to the performance of their functions and duties, under the first paragraph of Sec. 1, Rule 137 of the Rules of Court. If such disqualification exists, the Presiding Judge of the

court shall issue an order relieving the clerk of court from handling the particular case/s, and thereafter shall designate an employee within the branch to take over the functions of the branch clerk of court insofar as the particular case/s is concerned until its termination.

(2) For newly filed/raffled case/s in a particular branch of the court, before any pleading can be accepted, the counsel of the respective party-litigants shall be directed to file written manifestations, under oath, declaring as to whether or not they, or their respective clients are related to the clerk of court of the branch where the case/s has been filed/raffled, stating therein their degree of relationship by affinity or consanguinity.

Where there exists a relationship between the branch clerk of court and one of the parties involved in the subject case/s or a counsel of any of the parties to the case/s such that the branch clerk of court is disqualified in accordance with Section 1, Rule 137 of the Rules of Court as amended, the Presiding Judge of the court shall issue an order relieving the clerk of court from handling the particular case/s, and thereafter, shall designate an employee within the branch to take over the functions of the branch clerk of court insofar as the particular case/s is/are concerned until its termination.

(3) In the designation of the employee who will take over the functions of the branch clerk of court, the Presiding Judge shall observe the provisions of Civil Service Commission Memorandum Circular No. 6, series of 2005, re: Guidelines on Designation in the civil service, quoted hereunder:

- "A. Employees to be designated should hold permanent appointments to career positions.
- B. Designees can only be designated to positions within the level they are currently occupying. xxx
First level personnel cannot be designated to perform the duties of second level positions."

This circular shall take effect immediately.

August 9, 2010.


JOSE MIDAS P. MARQUEZ
Court Administrator