



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

OCA CIRCULAR NO. 113-2015

TO : THE CONCERNED JUDGES FOR THE PILOTING OF RULES 22 (CASE MANAGEMENT CONFERENCE) AND 24 (TRIAL ON THE ISSUES) OF THE PROPOSED RULES OF CIVIL PROCEDURE

SUBJECT: ADVICE AND INSTRUCTIONS CONCERNING THE PILOTING OF RULES 22 AND 24 OF THE PROPOSED RULES OF CIVIL PROCEDURE

Pursuant to the Resolution dated 18 March 2014 of the Court *En Banc* in A.M. No. 14-03-02-SC (Re: Program for Piloting and Assessing the Proposed Revised Rules of Civil Procedure), and to test the usefulness of Rules 22 and 24 of the proposed Revised Rules of Civil Procedure, the selected Pilot Courts involved and those charged with its implementation are advised and instructed as follows:

COMMON INSTRUCTIONS

1. *Coverage* - In the interest of orderly implementation of the proposed Rules 22 and 24, Pilot Court judges are advised to apply such rules to all civil cases that are re-raffled to them for trial beginning 1 July 2015 following a failed Judicial Dispute Resolution (JDR) in those cases. However, however, upon written mutual agreement of the parties, such Rules may also be applied to cases that have been re-raffled to the Pilot Courts before 1 July 2015 following a failed JDR.

2. *Cases of special courts* - Pilot Courts that serve as special courts, like family courts and commercial courts, are advised to apply the proposed Rules 22 and 24 to cases that are assigned to them for trial. The face-to-face trial shall not apply to special civil actions, special proceedings, cases that involve a child or a disadvantaged witness, and where the court perceives the danger of uncontrollable passion arising from deep animosity between the parties.

3. *Voluntary application of pilot rules to cases where JDR failed prior to July 1, 2015* - In cases that are re-raffled to Pilot Courts where the

failure of the JDR occurred prior to the effectivity of the pilot period, the provisions of Rules 22 and 24 may be applied by the Court only upon written unanimous agreement of the parties.

4. *Inhibition of Pilot Court judge* - In the event of the inhibition of a Pilot Court judge in a case governed by the proposed Rules 22 and 24, such case shall be re-raffled to another Pilot Court, should a qualified one be available in the same station. Otherwise, the non-Pilot Court to which it is re-raffled shall try the case under the applicable rules of procedure.

5. *Application of the Judicial Affidavit Rule.* - The Judicial Affidavit Rule shall apply to cases covered by the proposed Rules 22 and 24. The period for its submission shall, however, be reckoned from the date set in Section 22.2 (a) of the proposed Rule 22 since the latter is the controlling rule. In the event the parties have already submitted their judicial affidavits incidental to the failed JDR, it would be reasonable for the Pilot Court to allow them to adopt the same for the purpose of such Rule. The parties may submit reply affidavits pursuant to Sec. 22.2 (b) of Rule 22.

INSTRUCTIONS FOR RULE 22

6. *Notice to submit draft Terms of Reference (TOR).* - It is preferable that Pilot Courts serve notice on the parties to submit their draft TOR by electronic mail (email) or short messaging system (SMS), wherever such means of communication are available, at the mobile phone numbers that counsels of the parties have been required to submit, to ensure simultaneous receipt.

7. *Submission of TOR* - Within fifteen (15) days from notice, the parties shall personally file the required TOR with the Pilot Courts and simultaneously serve a copy thereof to the opposing parties.

8. *Filing and service of the draft TOR.* - The Pilot Courts may, if they deem it suitable under the circumstances, require the parties to file their draft TORs and serve copies of the same upon the adverse party also by email or SMS, wherever such means of communication are available. If this is not possible, the parties may personally file the same and furnish copies thereof by personal service upon the adverse party within fifteen (15) days from notice.

9. *Final TOR controls scope of the trial* - The TOR prepared by the Pilot Court during the preliminary conference, after consultation with the parties and their counsels, shall be final and shall control the scope of the trial.

10. *Evidence to be presented deemed admitted* - The direct testimony of a witness shall be deemed offered and admitted upon

submission of the judicial affidavit, subject to motion for exclusion of inadmissible testimony at the appropriate time and to the examination of such witness. Thus, an offer of evidence is no longer required after the trial has been terminated.

11. *Objection to presentation of witnesses or judicial affidavits* – Any objection to the presentation of a witness or to any of the questions propounded in the judicial affidavits or the judicial affidavits themselves shall be raised not later than the preliminary conference and before the TOR is finalized.

INSTRUCTIONS FOR RULE 24

i. Face-to-Face Trial

12. *Face-to-face trial to be given priority* – The Pilot Court must encourage the parties to agree on the mode of trial of issues that will govern their case. If they cannot agree, it is preferable for the Pilot Court judge to give priority to face-to-face trial, a shorter proceeding, unless insufferable circumstances dictate otherwise.

13. *Exclusion of witness not encouraged in face-to-face trial* – The exclusion of a witness in a face-to-face trial is discouraged since direct confrontation is the essence of such mode of trial. Should there be compelling reasons for excluding a witness, it is preferable that the court convert the mode of trial to alternate trial of issues.

14. *Examination by the judge* – To avoid the appearance of partiality when the judge examines a witness from one side and elicits testimony in his/her favor, the judge should ask the witness from the other side to respond to that testimony or ask him/her a question that will also elicit testimony in favor of his/her side.

ii. Alternate Trial

15. *Examination of witnesses per issue* – During an alternate trial, the Pilot Court and the counsels for the parties are required by the proposed Rules to examine each witness solely with respect to the issue or related issues stated in the order of trial. However, if a party has only one witness for all or several of the issues that are to be tried, then the witness should be examined on all the issues, but one issue after the other, in the order stated in the final TOR.

16. *Exclusion of witness allowed in alternate trial* – In alternate trial, the exclusion of witnesses is allowed upon the discretion of the judge.

Similar Instructions for Trial of Issues

17. *Trial of issues to be terminated in one hearing* - Trial of issues, as far as practicable, should be terminated in one hearing date. As such, the Pilot Court shall maintain a separate calendar for cases covered by these rules.

18. *Non-adversarial environment for trial of issues* - It is preferable for a Pilot Court to provide a non-adversarial environment during the trial of issues, whether it adopts a face-to-face trial or an alternate trial. This can be best achieved, if permitted by office space, through a conference type of hearing where the judge sits at the head of the table and the parties are seated on either side of the table.

19. *Apparent biased questions not a ground for inhibition of the Pilot Court judge* - A Pilot Court judge shall not inhibit from hearing and deciding a case covered by these proposed rules on the ground of apparent biased questions, provided that such questions are relevant to the issues being tried.

20. *No delegation of trial of issues to the clerk of court* - In the event that a party is declared in default due to his or her failure to appear during the preliminary conference, the Pilot Court judge shall not delegate the trial of issues involving the remaining party to the clerk of court. It is to the judge that the proposed rules entrust the examination of witnesses.

21. *Change in the mode of trial allowed* - The parties, upon written unanimous agreement and on or prior to the scheduled trial of issues, may opt to change the mode of trial from a face-to-face trial to an alternate trial or from an alternate trial to a face-to-face trial, provided that the conduct of the new mode of trial is not unduly affected. This promotes party autonomy. Should the Pilot Court judge perceive the danger of uncontrollable passion arising from deep animosity, the mode of trial may be converted from a face-to-face trial to an alternate trial.

For your strict compliance.

16 June 2015


JOSE MIDAS P. MARQUEZ
Court Administrator