

## ANNEX C

A.M. No. 01-10-5-SC PHILJA

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

Gentlemen:

*Quoted hereunder, for your information, is a resolution of the Court En Banc dated 16 October 2001*

“A.M. No. 01-10-5-SC-PHILJA. – Re: Various Resolutions of the Board of Trustees of the PHILJA approved during its Meetings on 18 September 2001 and 1 October 2001. – Acting on the Letter dated 10 October 2001 of PHILJA Chancellor Ameurfina A. Melencio-Herrera, the Court Resolved to **APPROVE** the following resolutions of the Board of Trustees of the Philippine Judicial Academy:

(c) Resolution No. 01-23, recommending the approval of the following proposed structures and guidelines for the institutionalization of Mediation in the Philippines:

- i) Administrative Order establishing the  
Philippine Mediation Center

ADMINISTRATIVE ORDER NO. \_\_\_\_\_

RE: DESIGNATING THE PHILIPPINE JUDICIAL (PHILJA) AS THE COMPONENT UNIT OF THE SUPREME COURT ON COURT-REFERRED, COURT-RELATED MEDIATION CASES AND OTHER ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, AND ESTABLISHING THE PHILIPPINE MEDIATION CENTER FOR THE PURPOSE.

In keeping with the policy declared in Section 1 of RA 8557 “*to ensure an efficient and credible Judiciary*” in relation to Section 3 of the same law mandating PHILJA “*to perform such other functions and duties as may be necessary in carrying out its mandate;*” consistent with one of the objectives of the Action Program for Judicial Reform (APJR), particularly the decongestion of court dockets, and the enhancement of access to justice; and towards the effective implementation of Section 2(a), Rule 18 of the 1997 Rules of Civil Procedure, the Supreme Court hereby designates *the Philippine Judicial Academy (PHILJA) as its component unit for court-referred, court-related mediation cases, and other forms of Alternative Dispute Resolution mechanisms, and establishes the Philippine Mediation Center (PMC) in accordance with the guidelines set forth hereunder:*

**1. Functions**

The Philippine Mediation Center (PMC) shall, among others:

- 1.1 Establish, in accordance with the Office of the Court Administrator (OCA), units of the Philippine Mediation Center (PMC) in courthouses, and in such other places as may be

necessary. Each unit, manned by Mediators and Supervisors, shall render mediation services to parties in court-referred, court-related mediation cases;

- 1.2 Recruit, screen, train and recommend Mediators for accreditation to this Court,
- 1.3 Require prospective Mediators to undergo four-week internship programs;
- 1.4 Provide training in mediation to judges, court personnel, educators, trainers, lawyers, and officials and personnel of quasi-judicial agencies;
- 1.5 Oversee and evaluate the performance of Mediators and Supervisors who are assigned cases by the courts;
- 1.6 Prepare a Code of Ethical Standards for Mediators for approval by the PHILJA Board of Trustees and this Court;
- 1.7 Implement the procedures in the assignment by the PMC Units of court-referred, court-related mediation cases to particular Mediators;
- 1.8 Propose to the Supreme Court (a) Guidelines on Mediation and (b) Compensation Guidelines for Mediators and Supervisors; and
- 1.9 Perform other related functions.

## ***2. Direction and Management***

PHILJA will direct and manage the Philippine Mediation Center (PMC), enlisting for this purpose the technical and management assistance of appropriate and qualified organizations or individuals, on such terms as may be stipulated in a Memorandum of Agreement between PHILJA, through its Chancellor, and such other organizations or individuals, subject to ratification by the PHILJA Board of Trustees.

## ***3. Technical and Management Assistance***

Technical and management assistance shall include, among others:

- 3.1 Establishment of Mediation Chapters with their respective Supervisors;
- 3.2 Recruitment, training and education, monitoring and performance evaluation of Supervisors and Mediators who will be assigned to different PMC units;
- 3.3 Assignment of trainers, monitors, and lecturers for purposes of instruction, internship, monitoring and evaluation;
- 3.4 Training and education in mediation of judges, court personnel, trainers, educators, lawyers and officials and personnel of quasi-judicial agencies;
- 3.5 Continuing education, training, skills development, and upgrading of accredited Mediators at least once every two (2) years;
- 3.6 Development of training and other instructional materials;

- 3.7 Development of systems and programs for the selection, monitoring and periodic evaluation of Mediators;
- 3.8 Administrative supervision of Supervisors and Mediators in each unit;
- 3.9 Preparation for submission to and approval by the PHILJA Board of Trustees and this Court of: (a) Code of Ethical Standards for Mediators, (b) Guidelines on Mediation and (c) Compensation Guidelines for Mediators and Supervisors;
- 3.10 Development of a system of evaluating the efficacy of mediation;
- 3.11 Setting up of a viable funding system to make the mediation process self-sustaining at the earliest possible time;
- 3.12 Development of administrative systems for case intake, screening, evaluation, documentation and record keeping, and other related activities; and
- 3.13 Conduct periodic public information campaigns.

#### **4. *Supervision and Control over PMC Units***

The operational control and supervision over PMC Units and Mediation Chapters with respect to court-referred, court-related mediation cases shall be with the Mediation Division of PHILJA, in coordination with the OCA. PHILJA may seek the assistance of appropriate and qualified organizations and individuals in supervising PMC Units and Mediation Chapters through a Memorandum of Agreement.

A Clerk-in-charge shall be assigned by the Executive Judge, after prior consultation with PHILJA and OCA, to coordinate between the courts and Mediators and Supervisors in every PMC Unit.

#### **5. *Role of the Presiding Judge***

The Presiding Judge, before whose court the case subject of mediation is pending, shall extend to the Mediator, every possible support and assistance.

The Mediator whose selection/appointment is confirmed by the Court is deemed an officer of the court.

#### **6. *Monthly Report***

The Supervisor of each PMC Unit shall submit to the Mediation Division of the Judicial Reforms Office of PHILJA a monthly report of its activities and operations, duly noted by the Executive Judge, furnishing a copy thereof to the Office of the Court Administrator.

#### **7. *Annual/Semi-Annual Settlement Week/s***

PHILJA shall determine, with the previous approval of this Court, when to conduct Annual and/or Semi-Annual Settlement Week/s, without prejudice to year-round mediation.

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**8. *Other Forms of Alternative Dispute Resolution***

PHILJA is likewise directed to study and recommend the use of other forms of court-diversion, or other modes of alternative dispute resolution, and upon its approval, to implement the same in accordance with such rules as may be promulgated by this Court.

**9. *Scope***

PHILJA may implement this directive nationwide, or initially in selected pilot areas.

**10. *Effectivity***

This Administrative Order shall take effect on the \_\_\_\_ day of \_\_\_\_\_, 2001 following its publication before the \_\_\_\_ day of \_\_\_\_\_, 2001 in two (2) newspapers of general circulation in the Philippines.

## ii) Second Revised Guidelines on Mediation

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
MANILA

TO: THE REGIONAL TRIAL COURTS AND METROPOLITAN TRIAL COURTS OF METRO MANILA, CEBU CITY, MANDAUE CITY AND DAVAO CITY, THE MUNICIPAL TRIAL COURTS OF CEBU AND DAVAO AND SUCH OTHER COURTS THAT MAY BE FURTHER DESIGNATED BY THE SUPREME COURT

SUBJECT: SECOND REVISED GUIDELINES FOR THE IMPLEMENTATION OF MEDIATION PROCEEDINGS

Pursuant to par. (5), Section 5, Article VIII of the 1987 Constitution mandating the Supreme Court to promulgate rules that shall provide a simplified and inexpensive procedure for the speedy disposition of cases and Section 2(a), Rule 18 of the 1997 Rules of Civil Procedure, as amended, requiring the courts to consider the possibility of an amicable settlement or of a submission to alternative modes of resolution, the following rules are hereby issued with regard to court-referred mediation:

**1. Coverage**

The following cases are referable to mediation:

- a) All civil cases, settlement of estates, and cases covered by the Rule on Summary Procedure, except those which by law may not be compromised;
- b) Cases cognizable by the Lupong Tagapamayapa under the Katarungang Pambarangay Law;
- c) The civil aspect of BP 22 cases; and
- d) The civil aspect of quasi-offenses under Title 14 of the Revised Penal Code.

**2. Order for Mediation**

The trial court, after determining the possibility of an amicable settlement or of a submission to alternative modes of dispute resolution, shall issue an Order referring the case to the Philippine Mediation Center (PMC) Unit for mediation and directing the parties to proceed immediately to the PMC Unit. The Order shall be personally given to the parties during the pre-trial. Copy of the Order together with a copy of the Complaint and Answer/s, shall be furnished the PMC Unit within the same date.

**3. The PMC Unit**

There shall be a PMC Unit in courthouses or near the premises of the trial court for court-referred mediation proceedings.

#### **4. Selection of Mediator**

The Supervisor of the PMC Unit shall assist the parties select a mutually acceptable Mediator from a list of duly accredited Mediators and inform the parties about the fees, if any, and the mode of payment. If the parties cannot agree on a Mediator, then the Supervisor shall assign the Mediator. The trial court shall immediately be notified of the name of the Mediator, and shall thereafter confirm the selection/appointment of the Mediator.

The Mediator shall immediately commence the mediation proceedings unless both parties agree to reset the mediation within the next five (5) working days, without the need of further notice.

#### **5. Presence of Lawyers**

Lawyers may attend the mediation proceedings and shall cooperate with the Mediator towards the amicable settlement of the dispute.

#### **6. Mediation Proceedings**

- a) The mediator shall be considered as an officer of the court.
- b) A conference before the Mediator shall first be held with both parties present. The Mediator shall explain the mediation proceedings stressing the benefits of an early settlement of the dispute and shall attempt immediate settlement. If no settlement is reached at this conference, the Mediator may, with the consent of both parties, hold separate caucuses with each party to enable the Mediator to determine their respective real interests in the dispute. Thereafter, another joint conference may be held to consider various options proposed by the parties to the Mediator to resolve the dispute.
- c) The Mediator shall not record the proceedings in any manner but he may take down personal notes to guide him.
- d) The Mediator shall submit to the trial court, which referred the case to mediation, a status report on the progress of the proceedings at the end of the mediation period.
- e) The PMC shall not keep a file of mediation proceedings except the report of the Mediator. All other records or documents that have been submitted by the parties shall be returned to them.
- f) At the end of the thirty-day period allowed by the trial court, if no settlement has been reached, the case must be returned to the trial court for further proceedings, unless the parties agree to further continue the mediation, in which case a last extension of thirty (30) days may be granted by the trial court.

#### **7. Confidentiality of Records**

To encourage the spontaneity that is conducive to effective communication, thereby enhancing the possibility of successful mediation efforts, the mediation proceedings and all incidents thereto shall be kept strictly confidential, unless otherwise specifically provided by law and all admissions or statements made therein shall be inadmissible for any purpose in any proceeding.

*Ex-parte* communications by one party to the mediator which are not intended to be known by the other party shall not be communicated to such other party. Documents, reports, position papers and affidavits submitted by one party shall not be shown to the other without the consent of the former.

Both parties undertake not to rely or introduce as evidence in any other proceeding, the following matters:

- a) Views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- b) Admissions made by either party in the course of the proceedings;
- c) Proposals made by the Mediator;
- d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the parties to the Mediator.

No transcript or minutes of the mediation proceedings shall be taken and personal notes of the Mediator on the mediation proceedings shall not be furnished the trial court. Any such transcript, minutes and notes shall be inadmissible as evidence in any other proceedings.

#### **8. *Suspension of Proceedings***

The period during which the case is undergoing mediation shall be excluded from the regular and mandatory periods for trial and rendition of judgment in ordinary cases and in cases under summary procedure.

The period for mediation shall not exceed 30 days, extendible for another 30 days, in order to allow the parties sufficient time to reach a compromise agreement and put an end to litigation.

#### **9. *Personal appearance/Proper authorizations***

Individual parties are encouraged to personally appear for mediation. In the event they cannot attend, their representatives must be fully authorized to appear, negotiate and enter into a compromise by a Special Power of Attorney. A corporation shall, by board resolution, fully authorize its representative to appear, negotiate and enter into a compromise agreement.

#### **10. *Proceedings in case of Successful Settlement***

If the mediation is successful, the trial court shall immediately be informed and given (a) the original Compromise Agreement entered into by the parties as basis for the rendition of a judgment by compromise which may be enforced by execution or, (b) a withdrawal of the Complaint or, (c) a satisfaction of the claim.

#### **11. *Proceedings in Case of Failure to Settle***

If the mediation is not successful, the Mediator shall issue a “Certificate of Failed Mediation” for the purpose of returning the case for further judicial proceedings.

### ***12. Sanctions***

Since mediation is part of Pre-Trial, the trial court shall impose the appropriate sanction including but not limited to censure, reprimand, contempt and such other sanctions as are provided under the Rules of Court for failure to appear for pre-trial, in case any or both of the parties absent himself/ themselves, or for abusive conduct during mediation proceedings.

### ***13. Duty of the Court***

Courts and their personnel are enjoined to assist in the successful implementation of mediation as one of the key modes of Alternative Dispute Resolution and thereby reduce docket congestion.

## iii. Code of Ethical Standards for Mediators

## CODE OF ETHICAL STANDARDS FOR MEDIATORS

## I.

## Responsibilities to Courts

A Mediator shall be candid, accurate, and fully responsible to the trial court concerning his qualifications, availability, and all other pertinent matters. A Mediator shall observe all administrative policies, applicable procedural rules and statutes. A Mediator is responsible to the judiciary for the propriety of his activities and must observe judicial standards of fidelity and diligence.

## II.

## Responsibilities to Parties

**Impartiality.** The Mediator shall maintain impartiality towards all parties. Impartiality means freedom from favoritism or bias either by appearance, word or by action, and a commitment to serve all parties as opposed to a single party. At no time may a Mediator meet with any of the parties to discuss a case referred to him for mediation without the presence or the consent of the other party. A Mediator shall withdraw from mediation if the mediator believes he can no longer be impartial. A Mediator shall not give or accept a gift, bequest, favor, loan or any other item to or from a party, attorney, or any other person involved in and arising from any mediation connection.

**Competence.** A Mediator shall maintain professional competence in mediation skills, including but not limited to:

- (a) staying informed of and abiding by all statutes, rules and administrative orders relevant to the practice of mediation; and
- (b) regularly engaging in educational activities promoting professional growth.

**Conflict of Interest.** The Mediator shall refrain from participating in the mediation of any dispute if he/she perceives that participation as a Mediator will be a clear conflict of interest. The mediator shall also disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may raise a question as to the Mediator's impartiality.

The duty to disclose is a continuing obligation throughout the process. In addition, if a Mediator has represented either party in any capacity, the Mediator should disclose that representation.

A Mediator shall disclose any known, significant current or past personal or professional relationship with any party or attorney involved in the mediation and the Mediator and parties should discuss on a case-by-case basis whether or not to continue.

After the Mediator makes his disclosures, and a party does not seek inhibition, the Mediator shall continue as such.

No mediator shall have any interest in any property, real or personal, that is the subject matter of the case referred to him/her for mediation. He/she may not offer to purchase or to sell such property, whether at the inception, during, or at any time after the mediation proceedings, either personally or through other parties.

**Avoidance of Delays.** A Mediator shall plan a work schedule, refrain from accepting appointments when it becomes apparent that completion of the mediation assignments cannot be done in a timely and expeditious manner, and perform the mediation services in such a way as to avoid delays.

**Prohibition Against Solicitation or Advertising.** A Mediator shall not use the mediation process to solicit, encourage, or otherwise incur future professional services and financial gain from either or both parties. Neither shall a Mediator make untruthful or exaggerated claims about the mediation process and his/her qualifications.

**Prohibition Against Coercion.** A Mediator shall not coerce or unfairly influence a party into a settlement agreement and shall not make substantive decisions for any party to a mediation process.

- a) **Prohibition Against Misrepresentation.** A Mediator shall not intentionally or knowingly misrepresent material facts or circumstances in the course of conducting mediation.
- b) **A Balanced Process.** A Mediator shall promote a balanced process and shall encourage the parties to conduct the mediation deliberations in a non-adversarial manner.
- c) **Mutual Respect.** A Mediator shall promote mutual respect among the parties throughout the mediation process.

**Personal Opinion.** While a Mediator may point out possible outcomes of the case, under no circumstance may a Mediator offer a personal or professional opinion as to how the trial court, where the case has been filed, will resolve the dispute.

**Disclosure of Fees.** Except for his/her authorized fees, the Mediator in Court-Referred Mediation shall not accept any commission, gift or other similar forms of remuneration from parties or their representatives.

In case of Non-Court Referred Mediation, the Mediator shall enter into a written agreement with the parties regarding reasonable fees, time and manner of payment, before beginning the mediation.

**Confidentiality.** The Mediator shall treat information revealed in mediation in strict confidentiality, except for the following:

1. Information that is statutorily mandated to be reported;
2. Information that, in the judgment of the Mediator, reveals a danger of serious physical harm either to a party, to a third person or to himself/herself.

**Role of Mediator in Settlement.** The Mediator has the responsibility to see to it that the parties consider and understand the terms of the settlement.

When a Mediator believes that a party does not understand or appreciate how a settlement agreement may adversely affect legal rights or obligations, the Mediator shall advise the said party to seek legal counsel.

## III.

## Relationship with other Professionals

The Mediator shall respect the relationship between mediation and other professional disciplines including law, medicine, science, accounting, mental health and social services and shall promote harmony and cooperation between Mediators and other professionals.

## IV.

## Responsibilities to Society

**Pro Bono Service.** A Mediator has a professional responsibility to provide competent service to persons seeking assistance including those unable to pay for such services. As a means of meeting the needs of the financially disadvantaged, a Mediator should provide mediation services pro bono or at a reduced rate of compensation.

**Support of Mediation.** A Mediator should support the advancement of mediation by encouraging and participating in research, evaluation, or other forms of professional development and public education.

iv. Standards and Procedures for Accreditation of Mediators  
for Court-Referred/Court-Related Mediation  
Cases

STANDARDS AND PROCEDURE FOR ACCREDITATION  
OF MEDIATORS FOR COURT-REFERRED/COURT-  
RELATED MEDIATION CASES

Basic Qualifications of Prospective Mediators:

1. Bachelor's degree
2. At least 30 years of age
3. Good moral character
4. Willingness to learn new skills and render public service
4. Proficiency in oral and written communication in English and Pilipino

Requirements/Procedure:

1. All participants must submit the following to PHILJA:
  - Curriculum Vitae with 2x2 picture
  - College School Records
  - NBI/Police Clearance
  - Certificates of good moral character from two (2) persons who are not related to the applicant
2. Upon submission, PHILJA and its technical assistant shall:
  - Administer a short written comprehension examination
  - Interview and evaluate each applicant
  - Schedule qualified applicants for training
3. All qualified applicants must successfully complete the following:
  - Basic Mediation Seminar-Workshop including a short written exercise to test their proficiency in oral and written communication;
  - Four-week Internship Program;
4. If PHILJA requests training services from other organizations or individuals, the organization or individual shall submit to PHILJA after the training the following:
  - Certification of satisfactory completion of the program;
  - Summarized report on the overall performance of each trainee/applicant.
5. Upon satisfactory completion of all the requirements, the PMC or the training organization shall prepare a report of the overall performance of each trainee/applicant for submission to PHILJA.
6. On the basis of the report, PHILJA shall submit to the Court its recommendation of Mediators for accreditation.

7. If approved by the Court, the accreditation shall be effective for a period of two (2) years. To maintain good standing, the Mediator must: a) continue to be of good moral character, b) render mediation services at least once a week to any PMC Unit; c) participate during Settlement Weeks; and d) complete refresher courses to be prescribed by PHILJA within the two (2) year period.

Failure to maintain good standing shall be a cause for the revocation and/or non-renewal of the accreditation.

The Mediator may request PHILJA, in writing, for the cancellation of his/her accreditation. Upon confirmation of the cancellation of accreditation, the Mediator shall surrender his/her Mediator's identification card and shall be dropped from the List of Accredited Mediators.

v. Compensation Guidelines for Mediators and Supervisors

COMPENSATION GUIDELINES FOR MEDIATORS AND SUPERVISORS

(These guidelines will serve as an interim option while possible amendments to Rule 141 are being studied for approval of the Court)

*Procedure*

Upon selection of a mutually acceptable Mediator by the parties, the Daily Supervisor shall inform the parties about the mediation fee. Both parties shall equally share in the payment of such fee, without prejudice to a different sharing arrangement between the parties when a compromise is reached.

Before the start of mediation, 50% of the mediation fee shall be paid to the Clerk of Court, who is a bonded court personnel. Upon settlement of the case through a compromise agreement, the balance of the mediation fee shall also be paid to the Clerk of Court. If no compromise is reached, the down payment is forfeited.

The parties shall pay the mediation fee in cash or manager's check payable to the SC-PHILJA-Philippine Mediation Center (PMC) Trust Fund. The fee shall be remitted to the Clerk of Court who shall issue the prescribed receipt in numerical order exclusively for the use of PMC, and who shall deposit the said amount not later than the next banking day to the said trust fund in the nearest branch of the government depository bank.

*Mediation Fee to be charged (except as regards pauper litigants)*

The Mediation Fee shall be a certain percentage of the filing fee, to be paid separately from the filing fee, and in accordance with the Levels of Mediators and the schedules presented below:

Level	Amount Chargeable	Minimum Fee*	Maximum Fee**
I. Accredited Mediators who have handled less than 50 cases	20% of Filing Fee	P 1,000.00	P 10,000.00
II. Accredited Mediators who have handled more than 50 cases	25% of Filing Fee	P 2,000.00	P 30,000.00
III. Accredited Mediators who have handled more than 100 cases	30% of Filing Fee	P 3,000.00	P 50,000.00

Example:

1. In Level I, if the filing fee is P 10,000.00, the litigants will equally share in the payment of 20% of P 10,000.00, or P 2,000.00 as Mediation Fee. 50% of this amount is payable to the Clerk of Court before the start of mediation.

## 2. In Level I

2.1 If the filing fee is P 4,000.00, the litigants will pay 20% of P 4,000.00 or P 800.00 as Mediation Fee to the Clerk of Court before the start of Mediation. Since this is less than the minimum fee of P1,000.00, litigants will pay P 1,000.00 as Mediation Fees to the Clerk of Court.

2.2 If the filing fee is P 100,000.00, the litigants will pay 20% of P 100,000.00, or P 20,000.00. Since this is more than the maximum amount of P 10,000.00, litigants will pay P 10,000.00 as Mediation Fee to the Clerk of Court.

\* in cases where the computed percentage amount is below the minimum

\*\* in cases where the computed percentage amount is above the maximum

The Mediator may also opt to render pro bono services whenever warranted.

### *Accounting of Funds*

All mediation fees shall be deposited in a SC-PHILJA-PMC Trust Fund. All fees to the mediators, supervisors and necessary operating expenses shall be paid from that fund.

The Clerk of Court shall submit to the Mediation Division of PHILJA, a monthly collection and bank remittance report. A monthly statement of account regarding the Trust Fund shall also be submitted to the Mediation Division of PHILJA by the government depository bank.

### *Sharing Scheme*

The mediation fee per case shall be allocated as follows:

70% - shall be paid to the Mediator who mediated the case;

5% - shall be paid to the daily Supervisor;

25% - shall go to the SC-PHILJA-PMC Trust fund for operational expenses, including the fees for technical assistance of organizations/individuals, transportation/communication expenses, photocopying, supplies and equipment, token fees, expense allowances and miscellaneous expenses, whenever necessary, and subject to auditing rules and regulations.