

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

2019 POINTS TO PONDER IN LEGAL AND JUDICIAL ETHICS

**THE CASE DOCTRINES OF THE PONENCIAS OF
SUPREME COURT ASSOCIATE JUSTICE**

ESTELA M. PERLAS-BERNABE

Chairperson, 2019 Bar Examinations

Compiled by:

PROF. E.H. BALMES

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***No one will be able to stand against you all the days of your life.
As I was with Moses, so I will be with you;
I will never leave you nor forsake you.
(JOSHUA 1:5)***

**EVELINA C. BANAAG v. OLIVIA C. ESPELETA,
Interpreter III, Branch 82, Regional Trial Court, Quezon City
A.M. No. P-11-3011 December 16, 2011
(Formerly OCA IPI No. 09-3143-P)**

"Can a man scoop fire into his lap without his clothes being burned? Can a man walk on hot coals without his feet being scorched?" So goes an early admonition against immorality from the Holy Book that is as valuable today as it was thousands of years ago. In the judiciary, "moral integrity is more than a virtue; it is a necessity".

◆ Member, UP Law Center Committee on the Suggested Answers in Commercial Law and Legal and Judicial Ethics.

◆ MCLE and Bar Reviewer in Legal Ethics and Commercial Law - Jurists Bar Review Center, Cosmopolitan Review Center, CPRS Bar Review Center, Luminous Bar Review, Dagupan, Powerhaus Review Center, Chan Robles Internet Review, PCU Bar Review, Albano Review Center and UP LAW Center.

◆ Member, Law Faculty, University of the East, Centro Escolar University, Arellano University, De La Salle University, University of Batangas, Far Eastern University, Polytechnic University of the Philippines, Philippine Christian University, Universidad de Manila.

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A court employee who has fallen short of the exacting standards of morality and decency has to face the consequences, even after the embers have died and the scars have faded.

Disgraceful and Immoral Conduct under Section 46(b)(5), Chapter 7, Subtitle A, Title I, Book V of the Administrative Code of 1987 which, as defined in Section 1 of CSC Resolution No. 100912 dated May 17, 2010 (Revised Rules on the Administrative Offense of Disgraceful and Immoral Conduct), is "an act which violates the basic norm of decency, morality and decorum abhorred and condemned by the society" and "conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community."

Respondent's act of maintaining an illicit relationship with a married man comes within the purview of disgraceful and immoral conduct.

In administrative proceedings, only substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required.

The standard of substantial evidence is satisfied when there is reasonable ground to believe that respondent is responsible for the misconduct complained of, even if such evidence might not be overwhelming or even preponderant.

"It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work thereat, from the judge to the lowest of its personnel. Court employees have been enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of courts of justice." This Court has thus consistently penalized court personnel who had been found wanting of such standards, even if they have precipitately resigned from their positions. Resignation should not be used either as an escape or as an easy way out to evade an administrative liability or an administrative sanction.

EN BANC

**RE: PETITION FOR JUDICIAL CLEMENCY OF JUDGE IRMA ZITA V.
MASAMAYOR,
A.M. No. 12-2-6-SC March 6, 2012**

Section 5, Rule 4 of the Rules of the JBC provides:

"SEC. 5. Disqualification. - The following are disqualified from being nominated for appointment to any judicial post or as Ombudsman or Deputy Ombudsman:

1. Those with pending criminal or regular administrative cases;
2. Those with pending criminal cases in foreign courts or tribunals; and
3. Those who have been convicted in any criminal case; or in an administrative case, where the penalty imposed is at least a fine of more than P10,000, unless he has been granted judicial clemency."

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In A.M. No. 07-7-17-SC (*Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Clemency*), the Court laid down the following guidelines in resolving requests for judicial clemency, thus:

"1. There must be proof of remorse and reformation.

These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.

2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reform.

3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.

4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.

5. There must be other relevant factors and circumstances that may justify clemency."

Petitioner's dedicated service of 23 years to the judiciary, having been first appointed as Municipal Circuit Trial Court judge in 1989, merits compassion from the Court. It bears to note that petitioner does not seek for promotion to a higher position but only a lateral transfer to a place of work near her residence.

**SUZETTE DEL MUNDO,
vs.
ATTY. ARNEL C. CAPISTRANO,
A.C. No. 6903 April 16, 2012**

Indeed, when a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting the latter's rights. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed on him by his client and makes him answerable not just to his client but also to the legal profession, the courts and society. His workload does not justify neglect in handling one's case because it is settled that a lawyer must only accept cases as much as he can efficiently handle.

Moreover, a lawyer is obliged to hold in trust money of his client that may come to his possession. As trustee of such funds, he is bound to keep them separate and apart from his own. Money entrusted to a lawyer for a specific purpose such as for the filing and processing of a case if not utilized, must be returned immediately upon demand. Failure to return gives rise to a presumption that he has misappropriated it in violation of the trust reposed on him. And the conversion of funds entrusted to him constitutes gross violation of professional ethics and betrayal of public confidence in the legal profession.

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To stress, the practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality, including honesty, integrity and fair dealing. They must perform their fourfold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility. Falling short of this standard, the Court will not hesitate to discipline an erring lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion in consideration of the surrounding facts.

**RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE REGIONAL
TRIAL COURT, BRANCHES 72 AND 22, NARVACAN, ILOCOS SUR.
A.M. No. 06-9-525-RTC June 13, 2012**

Judges have the sworn duty to administer justice without undue delay, for justice delayed is justice denied. They have always been exhorted to observe strict adherence to the rule on speedy disposition of cases, as delay in case disposition is a major culprit in the erosion of public faith and confidence in the judicial system.

Under the 1987 Constitution, trial judges are mandated to decide and resolve cases within 90 days from submission. *1awphi1* Corollary to this constitutional mandate, Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary requires judges to perform all judicial duties efficiently, fairly, and with reasonable promptness.

In *Office of the Court Administrator v. Javellana*, the Court held that a judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by the Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction. If a judge is unable to comply with the period for deciding cases or matters, he can, *for good reasons*, ask for an extension.

An inexcusable failure to decide a case within the prescribed 90-day period constitutes gross inefficiency, warranting the imposition of administrative sanctions such as suspension from office without pay or fine on the defaulting judge. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, such as the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, and other analogous circumstances.

**ENGR. GILBERT TUMBOKON, vs. ATTY. MARIANO R. PEFIANCO
A.C. No. 6116 August 1, 2012**

The practice of law is considered a privilege bestowed by the State on those who show that they possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms embodied in the Code. Lawyers may, thus, be disciplined for any conduct that is wanting of the above standards whether in their professional or in their private capacity.

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The settled rule is that betrayal of the marital vow of fidelity or sexual relations outside marriage is considered disgraceful and immoral as it manifests deliberate disregard of the sanctity of marriage and the marital vows protected by the Constitution and affirmed by our laws.

However, We find the charge of engaging in illegal money lending not to have been sufficiently established. *1âwphi1* A "business" requires some form of investment and a sufficient number of customers to whom its output can be sold at profit on a consistent basis. The lending of money to a single person without showing that such service is made available to other persons on a consistent basis cannot be construed as *asindicia* that respondent is engaged in the business of lending.

**EMILIA O. DHALI WAL vs. ATTY. ABELARDO B. DUMAGUING
A.C. No. 9390 August 1, 2012**

Money entrusted to a lawyer for a specific purpose, such as payment for the balance of the purchase price of a parcel of land as in the present case, but not used for the purpose, should be immediately returned.

"A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment."

**DIONISIO P. PILOT, vs. RENATO B. BARON, SHERIFF IV, REGIONAL TRIAL
COURT, BRANCH 264, PASIG CITY.
A.M. No. P-12-3087 September 24, 2012
(Formerly A.M. OCA IPI No. 08-2720-P)**

Sheriffs play an important role in the administration of justice since they are tasked to execute final judgments of the courts that would otherwise become empty victories for the prevailing party if not enforced. The 2002 Revised Manual for Clerks of Court characterizes sheriffs' functions as purely ministerial, to wit:

Sheriffs are ministerial officers. They are agents of the law and not agents of the parties, neither of the creditor nor of the purchaser at a sale conducted by him. It follows, therefore, that the sheriff can make no compromise in an execution sale.

As a ministerial officer, a sheriff is expected to faithfully perform what is incumbent upon him, even in the absence of instruction. Thus, he must discharge his duties with due care and utmost diligence. In serving court writs and processes and in implementing court orders, he cannot afford to err without affecting the integrity of his office and the efficient administration of justice.

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**MARIANO T. ONG, vs. EVA G. BASIYA-SARATAN, CLERK OF COURT,
REGIONAL TRIAL COURT, ILOILO CITY, BRANCH 32
A.M. No. P-12-3090 January 7, 2013
(Formerly A.M. OCA IPI No. 11-3662-P)**

Clerks of Court like respondent are primarily responsible for the speedy and efficient service of all court processes and writs. Hence, they cannot be allowed to slacken on their work since they are charged with the duty of keeping the records and the seal of the court, issuing processes, entering judgments and orders, and giving certified copies of records upon request. As such, they are expected to possess a high degree of discipline and efficiency in the performance of their functions to help ensure that the cause of justice is done without delay.

EN BANC

**RE: COMPLAINT OF LEONARDO A. VELASCO AGAINST ASSOCIATE
JUSTICES FRANCISCO H. VILLARUZ, JR., ALEX L. QUIROZ, AND SAMUEL
R. MARTIRES OF THE SANDIGANBAYAN.
A.M. OCA IPI No. 10-25-SB-J January 15, 2013**

"Misconduct means intentional wrongdoing or deliberate violation of a rule of law or a standard of behavior. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions of a public officer. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of an established rule must be established."

EN BANC

**RE: VERIFIED COMPLAINT OF AMA LAND, INC. AGAINST HON. DANTON
Q. BUESER, HON. SESINANDO E. VILLON and HON. RICARDO R.
ROSARIO, ASSOCIATE JUSTICES OF THE COURT OF APPEALS.
A.M. OCA IPI No. 12-202-CA-J January 15, 2013**

Jurisprudence is replete with cases holding that errors, if any, committed by a judge in the exercise of his adjudicative functions cannot be corrected through administrative proceedings, but should instead be assailed through available judicial remedies. Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies and, thus, cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by their erroneous orders or judgments.

Acts or conduct of the judge clearly indicative of arbitrariness or prejudice must be clearly shown before he can be branded the stigma of being biased and partial. In the same vein, bad faith or malice cannot be inferred simply because the judgment or order is adverse to a party.

Finally, resort to administrative disciplinary action prior to the final resolution of the judicial issues involved constitutes an abuse of court processes that serves to disrupt rather than

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promote the orderly administration of justice and further clog the courts' dockets. Those who seek relief from the courts must not be allowed to ignore basic legal rules and abuse court processes in their efforts to vindicate their rights.

EN BANC

**FLORENCE TEVES MACARUBBO vs. ATTY. EDMUNDO L. MACARUBBO
RE: PETITION (FOR EXTRAORDINARY MERCY) OF EDMUNDO L.
MACARUBBO.**

Adm. Case No. 6148

January 22, 2013

In Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Clemency, the Court laid down the following guidelines in resolving requests for judicial clemency, to wit:

1. There must be proof of remorse and reformation. These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reform.
3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.
4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.
5. There must be other relevant factors and circumstances that may justify clemency. (Citations omitted)

Moreover, to be reinstated to the practice of law, the applicant must, like any other candidate for admission to the bar, satisfy the Court that he is a person of good moral character.

While the Court is ever mindful of its duty to discipline and even remove its errant officers, concomitant to it is its duty to show compassion to those who have reformed their ways, as in this case.

Accordingly, respondent is hereby ordered .reinstated to the practice of law. *1âwphi1* He is, however, reminded that such privilege is burdened with conditions whereby adherence. to the rigid standards of intellect, moral uprightness, and strict compliance with the rules and the law are continuing requirements.

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EN BANC

**RE: REQUEST OF (RET.) CHIEF JUSTICE ARTEMIO V. PANGANIBAN FOR
RECOMPUTATION OF HIS CREDITABLE SERVICE FOR THE PURPOSE OF
RECOMPUTING HIS RETIREMENT BENEFITS.**

A.M. No. 10-9-15-SC

February 12, 2013

The Supreme Court has unquestionably followed the practice of liberal treatment in passing upon retirement claims of judges and justices, thus: (1) waiving the lack of required length of service in cases of disability or death while in actual service or distinctive service; (2) adding accumulated leave credits to the actual length of government service in order to qualify one for retirement; (3) tacking post-retirement service in order to complete the years of government service required; (4) extending the full benefits of retirement upon compassionate and humanitarian considerations; and (5) considering legal counselling work for a government body or institution as creditable government service.

The generous extent of the Court's liberality in granting retirement benefits is obvious in *Re: Justice Efren I. Plana*:

It may also be stressed that under the beneficent provisions of Rep. Act 910, as amended, a Justice who reaches age 70 is entitled to full retirement benefits with no length of service required. Thus, a 69 year old lawyer appointed to the bench will get full retirement benefits for the rest of his life upon reaching age 70, even if he served in the government for only one year. Justice Plana served the government with distinction for 33 years, 5 months, and 11 days, more than 5 years of which were served as a Justice of the Court of Appeals of this Court.

EN BANC

GLORIA P. JINON vs. ATTY. LEONARDO E. JIZ

A.C. No. 9615

March 5, 2013

A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

The practice of law is considered a privilege bestowed by the State on those who show that they possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms embodied in the Code. "Lawyers may, thus, be disciplined for any conduct that is wanting of the above standards whether in their professional or in their private capacity."

Undeniably, "when a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting the latter's rights. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed on him by his client and makes him answerable not just to client but also to the legal profession, the court and society."

"A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the

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trust reposed to him by his client. Such act is a gross violation of general morality as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment."

**OFFICE OF THE COURT ADMINISTRATOR vs. JESUS L. GRAGEDA
A.M. No. RTJ-10-2235 March 11, 2013
(Formerly A.M. No. 10-3-94-RTC)**

Jurisprudence is replete with rulings that in order for the Court to acquire jurisdiction over an administrative proceeding, the complaint must be filed during the incumbency of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case. In fine, cessation from office by reason of resignation, death or retirement is not a ground to dismiss the case filed against the said officer or employee at the time that he was still in the public service or render it moot and academic.

In the case of Office of the Ombudsman v. Andutan, Jr., the Court ruled that while the Ombudsman is not precluded from conducting an investigation against the errant employee, it can no longer institute an administrative case against Andutan who had already resigned, more so since his resignation or severance of employment from the service was not availed of to prevent the continuation of the pending administrative case or to pre-empt the imminent filing of one. The Court also dismissed an administrative case filed against a retired court stenographer for having been initiated over a month after her retirement from the service. Moreover, in Re: Missing Exhibits and Court Properties in Regional Trial Court, Branch 4, Panabo City, Davao del Norte, the Court absolved herein respondent, Judge Grageda, from any administrative liability since the complaint against him was filed after his retirement from the judiciary.

This Court concedes that there are no promulgated rules on the conduct of judicial audit. However, the absence of such rules should not serve as license to recommend the imposition of penalties to retired judges who, during their incumbency, were never given a chance to explain the circumstances behind the results of the judicial audit.

**EN BANC
EDUARDO A. ABELLA vs. RICARDO G. BARRIOS, JR.,
Adm. Case No. 7332 June 18, 2013**

To note, "the possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the Bar and to retain membership in the legal profession." This proceeds from the lawyer's duty to observe the highest degree of morality in order to safeguard the Bar's integrity. Consequently, any errant behavior on the part of a lawyer, be it in the lawyer's public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.

Fundamental in the realm of labor law is the rule that backwages are separate and distinct from separation pay in lieu of reinstatement and are awarded conjunctively to an employee who has been illegally dismissed.

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Jurisprudence illumines that immoral conduct involves acts that are willful, flagrant, or shameless, and that show a moral indifference to the opinion of the upright and respectable members of the community. It treads the line of grossness when it is so corrupt as to constitute a criminal act, or so unprincipled as to be reprehensible to a high degree, or when committed under such scandalous or revolting circumstances as to shock the community's sense of decency. On the other hand, gross misconduct constitutes "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error of judgment."

In this relation, Section 27, Rule 138 of the Rules of Court states that when a lawyer is found guilty of gross immoral conduct or gross misconduct, he may be suspended or disbarred:

SEC. 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis and underscoring supplied)

Thus, as respondent's violations clearly constitute gross immoral conduct and gross misconduct, his disbarment should come as a matter of course.

However, the Court takes judicial notice of the fact that he had already been disbarred in a previous administrative case, entitled *Sps. Rafols, Jr. v. Ricardo G. Barrios, Jr.*, which therefore precludes the Court from duplicitously decreeing the same. In view of the foregoing, the Court deems it proper to, instead, impose a fine in the amount of ₱40,000.00 in order to penalize respondent's transgressions as discussed herein and to equally deter the commission of the same or similar acts in the future.

As a final word, the Court staunchly reiterates the principle that the practice of law is a privilege accorded only to those who continue to meet its exacting qualifications. Verily, for all the prestige and opportunity which the profession brings lies the greater responsibility to uphold its integrity and honor. Towards this purpose, it is quintessential that its members continuously and unwaveringly exhibit, preserve and protect moral uprightness in their activities, both in their legal practice as well as in their personal lives. Truth be told, the Bar holds no place for the deceitful, immoral and corrupt.

**RIA PAMELA B. ABULENCIA and BLESSIE M. BURGONIO vs.
REGINO R. HERMOSISIMA, SECURITY GUARD II, SHERIFF AND
SECURITY DIVISION, SANDIGANBAYAN
A.M. SB-13-20-P June 26, 2013
(Formerly A.M. No. 12-29-SB-P)**

On April 25, 2012, respondent inquired from the complainants about the status of the computation of the loyalty differential of Sandiganbayan employees. The complainants replied that they were still finalizing the computation based on the new directives of the Finance Division. Respondent then said, "Bakit nyo pinapatagal?" to which complainant Burgonio

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replied, "Matalino ka naman, ikaw na gumawa nyan!" Taken aback by the latter's response, respondent in a loud angry voice uttered, "Mga putang-ina nyo, ang bobobo nyo! Ang tanga nyo, ayusin nyo yang trabaho nyo!"

Misconduct has been defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior, especially by a government official. A misconduct is grave where the elements of corruption, a clear intent to violate the law, or a flagrant disregard of established rules are present. Otherwise, a misconduct is only simple. Accordingly, simple misconduct has been defined as an unacceptable behavior which transgresses the established rules of conduct for public officers, work-related or not.

In the case at bar, respondent's act of hurling invectives on the complainants during office hours and within the court premises was correctly held to be a case of simple misconduct. Verily, respondent's foul and vulgar utterances, albeit not work related, constitute clear deviations from the established norms of conduct which ought to be followed by public officers. For such infractions, it cannot be gainsaid that respondent should be held administratively liable for the same.

In this relation, it must be pointed out that respondent's justification, i.e., that his outbursts were only made out of his frustration due to the delayed release of his loyalty benefit can be hardly regarded as a justifiable excuse. The Court has consistently reminded that court employees are supposed to be well-mannered, civil and considerate in their actuations, both in their relations with co-workers and the transacting public. Boorishness, foul language, and any misbehavior in the court premises diminish its sanctity and dignity.

**JOSEFINA CARANZA VDA. DE SALDIVAR vs. ATTY. RAMON SG
CABANES, JR.,
A.C. No. 7749 July 8, 2013**

The Court resolves to adopt the IBP's findings and recommendation.

The relationship between an attorney and his client is one imbued with utmost trust and confidence. In this light, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. Verily, a lawyer is expected to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free.

Case law further illumines that a lawyer's duty of competence and diligence includes not merely reviewing the cases entrusted to the counsel's care or giving sound legal advice, but also consists of properly representing the client before any court or tribunal, attending scheduled hearings or conferences, preparing and filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so.

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**JOSEPHINE L. OROLA, MYRNA L. OROLA, MANUEL L. OROLA, MARY
ANGELYN OROLA-BELARGA, MARJORIE MELBA OROLA-CALIP, and
KARENOROLA vs.**

**ATTY. JOSEPH ADOR RAMOS
A.C. No. 9860 September 11, 2013**

It is explicit that a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.

It must, however, be noted that a lawyer's immutable duty to a former client does not cover transactions that occurred beyond the lawyer's employment with the client. The intent of the law is to impose upon the lawyer the duty to protect the client's interests only on matters that he previously handled for the former client and not for matters that arose after the lawyer-client relationship has terminated.

EN BANC

**RE: REQUEST FOR GUIDANCE/CLARIFICATION ON SECTION 7, RULE III
OF REPUBLIC ACT NO. 10154 REQUIRING RETIRING GOVERNMENT
EMPLOYEES TO SECURE A CLEARANCE OF PENDENCY/NON-
PENDENCY OF CASE/S FROM THE CIVIL SERVICE COMMISSION.
A.M. No. 13-09-08-SC October 1, 2013**

Section 6, Article VIII of the 1987 Philippine Constitution (Constitution) exclusively vests in the Court administrative supervision over all courts and court personnel. As such, it oversees the court personnel's compliance with all laws and takes the proper administrative action against them for any violation thereof. As an adjunct thereto, it keeps in its custody records pertaining to the administrative cases of retiring court personnel.

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

In view of the foregoing, the Court rules that the subject provision – which requires retiring government employees to secure a prior clearance of pendency/non-pendency of administrative case/s from, among others, the CSC – should not be made to apply to employees of the Judiciary. *1âwphi1* To deem it otherwise would disregard the Court's constitutionally-enshrined power of administrative supervision over its personnel. Besides, retiring court personnel are already required to secure a prior clearance of the pendency/non-pendency of administrative case/s from the Court which makes the CSC clearance a superfluous and non-expeditious requirement contrary to the declared state policy of RA 10154.

To further clarify the matter, the same principles dictate that a prior clearance of pendency/non-pendency of administrative case/s from the Office of the President (albeit some court personnel are presidential appointees, e.g., Supreme Court Justices) or the Office of the Ombudsman should not equally apply to retiring court personnel. Verily, the administrative supervision of court personnel and all affairs related thereto fall within the exclusive province of the Judiciary.

It must, however, be noted that since the Constitution only accords the Judiciary administrative supervision over its personnel, a different treatment of the clearance requirement obtains with respect to criminal cases. As such, a clearance requirement which pertains to criminal cases may be imposed by the appropriate government agency, i.e., the Office of the Ombudsman, on retiring court personnel as it is a matter beyond the ambit of the Judiciary's power of administrative supervision.

WHEREFORE, the requirement of seeking a Clearance of Pendency/Non-Pendency of Administrative Case from the Civil Service Commission embodied in Section 7, Rule III of the Implementing Rules and Regulations of Republic Act No. 10154 is declared INAPPLICABLE to retiring employees of the Judiciary.

EN BANC
MARIA CRISTINA ZABALJAUREGUI PITCHER vs. ATTY. RUSTICO B.
GAGATE
A.C. No. 9532 October 8, 2013

The Court has repeatedly emphasized that the relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. For his part, the lawyer is expected to maintain at all times a high standard of legal proficiency, and to devote his full attention, skill, and competence to the case, regardless of its importance and whether he accepts it for a fee or for free. To this end, he is enjoined to employ only fair and honest means to attain lawful objectives.

AZUCENA SEGOVIA-RIBAYA vs. ATTY. BARTOLOME C. LAWSIN
A.C. No. 7965 November 13, 2013

Records disclose that respondent admitted the receipt of the subject amount from complainant to cover for pertinent registration expenses but posited his failure to return the same due to his client's act of confronting him at his office wherein she shouted and called him names. With the fact of receipt being established, it was then respondent's obligation to return the money entrusted to him by complainant.

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To this end, suffice it to state that complainant's purported act of "maligning" respondent does not justify the latter's failure to properly account for and return his client's money upon due demand. Verily, a lawyer's duty to his client is one essentially imbued with trust so much so that it is incumbent upon the former to exhaust all reasonable efforts towards its faithful compliance. In this case, despite that singular encounter, respondent had thereafter all the opportunity to return the subject amount but still failed to do so. Besides, the obligatory force of said duty should not be diluted by the temperament or occasional frustrations of the lawyer's client, especially so when the latter remains unsatisfied by the lawyer's work. Indeed, a lawyer must deal with his client with professional maturity and commit himself towards the objective fulfillment of his responsibilities. If the relationship is strained, the correct course of action is for the lawyer to properly account for his affairs as well as to ensure the smooth turn-over of the case to another lawyer.

**FELIPE C. DAGALA vs. ATTY. JOSE C. QUESADA, JR. and ATTY. AMADO
T. ADQUILEN
A.C. No. 5044 December 2, 2013**

In the present case, the Court finds Atty. Quesada to have violated the foregoing Rules and Canons. Primarily, Atty. Quesada failed to exercise the required diligence in handling complainant's case by his failure to justify his absence on the two (2) mandatory conference hearings in NLRC Case No. RAB-I-11-1123-94 despite due notice, which thus resulted in its dismissal. It bears stressing that a retained counsel is expected to serve the client with competence and diligence and not to sit idly by and leave the rights of his client in a state of uncertainty. To this end, he is oblige to attend scheduled hearings or conferences, prepare and file the required pleadings, prosecute the handled cases with reasonable dispatch, and urge their termination without waiting for the client or the court to prod him or her to do so.

Atty. Quesada's failure to attend the scheduled conference hearings, despite due notice and without any proper justification, exhibits his inexcusable lack of care and diligence in managing his client's cause in violation of Canon 17 and Rule 18.03, Canon 18 of the Code. Moreover, Atty. Quesada acted with less candor and good faith in the proceedings before the IBP-CBD when he denied the existence of any lawyer-client relationship between him and complainant, and claimed that the labor case was handled by another lawyer, despite his previous admission before the Court of having accepted complainant's case.

While the IBP-CBD is not a court, the proceedings therein are nonetheless part of a judicial proceeding, a disciplinary action being in reality an investigation by the Court into the misconduct of its officers or an examination into his character.

In *Tria-Samonte v. Obias*, the Court recently illumined that disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar and that the only concern is his administrative liability. Thus, matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in nature, should be threshed out in a proper proceeding of such nature, and not during administrative-disciplinary proceedings, as in this case.

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**ANGELITO R. MARQUEZ, et. al, vs. JUDGE VENANCIO M. OVEJERA
A.M. No. P-11-2903 February 5, 2014
[Formerly A.M. OCA IPI No. 09-2181-MTJ]**

Section 8 of RA 6713, requires all public officials and employees to accomplish and submit declarations under oath of their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under 18 years of age living in their households. In this relation, the same provision mandates full disclosure of the concerned public official's (a) real property, its improvements, acquisition costs, assessed value and current fair market value, (b) personal property and acquisition cost, (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like, (d) liabilities, and (e) all business interests and financial connections.

Verily, the requirement of SALN submission is aimed at curtailing and minimizing the opportunities for official corruption, as well as at maintaining a standard of honesty in the public service. With such disclosure, the public would, to a reasonable extent, be able to monitor the affluence of public officials, and, in such manner, provides a check and balance mechanism to verify their undisclosed properties and/or sources of income.

**SPOUSES RICARDO and EVELYN MARCELO vs.
JUDGE RAMSEY DOMINGO G. PICHAY, METROPOLITAN TRIAL COURT,
BRANCH 78, PARANAQUE CITY
A.M. No. MTJ-13-1838 March 12, 2014
[Formerly A.M. OCA IPI NO. 10-2260-MTJ]**

The Constitution requires our courts to conscientiously observe the time periods in deciding cases and resolving matters brought to their adjudication, which, for lower courts, is three (3) months from the date they are deemed submitted for decision or resolution. Section 15, Article VIII of the 1987 Philippine Constitution (1987 Constitution) states this rule, viz.:

Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

In consonance with the foregoing, Section 5, Canon 6 of the New Code of Judicial Conduct For the Philippine Judiciary states that:

Sec. 5. Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently fairly and with reasonable promptness. (Emphasis supplied)

In furtherance of the foregoing mandate, the Court issued Administrative Circular No. 13-87 [dated July 1, 1987], which states:

The reorganized judiciary is tasked with the tremendous responsibility of assisting parties litigants in obtaining just, speedy and inexpensive determination of their cases and proceedings as directed in Rule 1, Section 2 of the Rules of Court. Delay is a recurring complaint of every litigant. The main objective of every judge, particularly trial judges, should be to avoid delays, or if it cannot be totally avoided, to hold them to the minimum and to repudiate manifestly dilatory tactics.

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GENERAL GUIDELINES

For all members of the judiciary, the following guidelines are hereby issued:

x x x x

3. Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. x x x x

The Court has consistently impressed upon judges the need to decide cases promptly and expeditiously under the time-honored precept that justice delayed is justice denied. Every judge should decide cases with dispatch and should be careful, punctual, and observant in the performance of his functions for delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute. Failure to decide a case within the reglementary period is not excusable and constitutes gross inefficiency warranting the imposition of administrative sanctions on the defaulting judge. (Emphasis supplied)

A judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by the Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction. If a judge is unable to comply with the period for deciding cases or matters, he can, for good reasons, ask for an extension.

An inexcusable failure to decide a case within the prescribed 90-day period constitutes gross inefficiency, warranting the imposition of administrative sanctions such as suspension from office without pay or fine on the defaulting judge. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, such as the presence of aggravating or mitigating circumstances, the damage suffered by the parties as a result of the delay, the health and age of the judge, and other analogous circumstances. (Emphasis supplied; citations omitted)

**GERSHON N. DULANG vs. JUDGE MARY JOCYLEN G. REGENCIA,
MUNICIPAL CIRCUIT TRIAL COURT (MCTC), ASTURIAS-BALAMBAN,
CEBU**

**A.M. No. MTJ-14-1841 June 2, 2014
(Formerly OCA IPI No. 11-2388-MTJ)**

Prompt disposition of cases is attained basically through the efficiency and dedication to duty of judges. If judges do not possess those traits, delay in the disposition of cases is inevitable to the prejudice of the litigants. Accordingly, judges should be imbued with a high sense of duty and responsibility in the discharge of their obligation to administer justice promptly.

This is embodied in Rule 3.05, Canon 3 of the Code of Judicial Conduct which states that "[a] judge shall dispose of the court's business promptly and decide cases within the required periods" and echoed in Section 5, Canon 6 of the New Code of Judicial Conduct for the

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Philippine Judiciary which provides that "[j]udges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness."

Undue delay in rendering a decision is classified as a less serious charge, punishable either by: (a) suspension from office without salary and other benefits for not less than one nor more than three months; or (b) a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.

In imposing the proper sanction on Judge Regencia, the Court notes that aside from her aforementioned misrepresentation, she was also previously found administratively liable for gross inefficiency where she was ordered to pay a fine of PS,000.00 and warned that a repetition of the same or similar offense will be dealt with more severely.

**OFFICE OF THE COURT ADMINISTRATOR, vs. SARAH P. AMPONG,
COURT INTERPRETER III, REGIONAL TRIAL COURT OF ALABEL, SARAN
GANI PROVINCE, BRANCH 38**

**A.M. No. P-13-3132 June 4, 2014
(Formerly A.M. No. 12-3-54-RTC)**

By intentionally practicing a deception to secure a passing mark, their acts undeniably involve dishonesty.

This Court has defined dishonesty as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." [Ampong's] dishonest act as a civil servant renders her unfit to be a judicial employee. Indeed, We take note that [Ampong] should not have been appointed as a judicial employee had this Court been made aware of the cheating that she committed in the civil service examinations. Be that as it may, [Ampong's] present status as a judicial employee is not a hindrance to her getting the penalty she deserves.

It is true that the CSC has administrative jurisdiction over the civil service. As defined under the Constitution and the Administrative Code, the civil service embraces every branch, agency, subdivision, and instrumentality of the government, and government-owned or controlled corporations. Pursuant to its administrative authority, the CSC is granted the power to "control, supervise, and coordinate the Civil Service examinations." This authority grants to the CSC the right to take cognizance of any irregularity or anomaly connected with the examinations.

However, the Constitution provides that the Supreme Court is given exclusive administrative supervision over all courts and judicial personnel. By virtue of this power, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, rules and regulations. It may take the proper administrative action against them if they commit any violation. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers. Thus, this Court ruled that the Ombudsman cannot justify its investigation of a judge on the powers granted to it by the Constitution. It violates the specific mandate of the Constitution granting to the Supreme Court supervisory powers over all courts and their personnel; it undermines the independence of the judiciary.

In Civil Service Commission v. Sta. Ana, this Court held that impersonating an examinee of a civil service examination is an act of dishonesty. But because the offender involved a judicial

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employee under the administrative supervision of the Supreme Court, the CSC filed the necessary charges before the Office of the Court Administrator (OCA), a procedure which this Court validated.

The bottom line is administrative jurisdiction over a court employee belongs to the Supreme Court, regardless of whether the offense was committed before or after employment in the judiciary.

Pursuant to the doctrine of immutability of judgment, which states that "a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law,"

It must be stressed that every employee of the Judiciary should be an example of integrity, uprightness, and honesty. Like any public servant, she must exhibit the highest sense of honesty and integrity not only in the performance of her official duties but also in her personal and private dealings with other people, to preserve the court's good name and standing. The image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work thereat, from the judge to the lowest of its personnel. Court personnel have been enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of the courts of justice.

EN BANC

**EUPROCINA I. CRISOSTOMO, MARILYN L. SOLIS, EVELYN MARQUIZO,
ROSEMARIE BALATUCAN, MILDRED BATANG, MARILEN MINERALES,
and MELINDA D. SIOTING, vs. ATTY. PHILIP Z. A. NAZARENO.
A.C. No. 6677 June 10, 2014**

The distinction between the prohibition against forum shopping and the certification requirement should by now be too elementary to be misunderstood. To reiterate, compliance with the certification against forum shopping is separate from and independent of the avoidance of the act of forum shopping itself. There is a difference in the treatment between failure to comply with the certification requirement and violation of the prohibition against forum shopping not only in terms of impossible sanctions but also in the manner of enforcing them. The former constitutes sufficient cause for the dismissal without prejudice to the filing of the complaint or initiatory pleading upon motion and after hearing, while the latter is a ground for summary dismissal thereof and for direct contempt. x x x.

Under Section 5, Rule 7 of the Rules of Court, the submission of false entries in a certification against forum shopping constitutes indirect or direct contempt of court, and subjects the erring counsel to the corresponding administrative and criminal actions, viz.:

Section 5. Certification against forum shopping. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.



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Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

In this case, it has been established that Atty. Nazareno made false declarations in the certifications against forum shopping attached to Rudex's pleadings, for which he should be held administratively liable.

Separately, the Court further finds Atty. Nazareno guilty of malpractice as a notary public, considering that he assigned only one document number (i.e., Doc. No. 1968) to the certifications against forum shopping attached to the six (6) April 1, 2004 complaints for rescission and ejectment despite the fact that each of them should have been treated as a separate notarial act. It is a standing rule that for every notarial act, the notary shall record in the notarial register at the time of the notarization, among others, the entry and page number of the document notarized, and that he shall give to each instrument or document executed, sworn to, or acknowledged before him a number corresponding to the one in his register.

Worse, Atty. Nazareno notarized the certifications against forum shopping attached to all the aforementioned complaints, fully aware that they identically asserted a material falsehood, i.e., that Rudex had not commenced any actions or proceedings or was not aware of any pending actions or proceedings involving the same issues in any other forum.

Where admittedly the notary public has personal knowledge of a false statement or information contained in the instrument to be notarized, yet proceeds to affix his or her notarial seal on it, the Court must not hesitate to discipline the notary public accordingly as the circumstances of the case may dictate. Otherwise, the integrity and sanctity of the notarization process may be undermined and public confidence on notarial documents diminished. In this case, respondent's conduct amounted to a breach of Canon 1 of the Code of Professional Responsibility, which requires lawyers to obey the laws of the land and promote respect for the law and legal processes. Respondent also violated Rule 1.01 of the Code which proscribes lawyers from engaging in unlawful, dishonest, immoral, or deceitful conduct.

Notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document thus making that document admissible in evidence without further proof of its authenticity. A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.

When a notary public certifies to the due execution and delivery of the document under his hand and seal he gives the document the force of evidence. Indeed, one of the purposes of requiring documents to be acknowledged before a notary public, in addition to the solemnity which should surround the execution and delivery of documents, is to authorize such documents to be given without further proof of their execution and delivery. Where the notary public is a lawyer, a graver responsibility is placed upon him by reason of his solemn oath to

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obey the laws and to do no falsehood or consent to the doing of any. Failing in this, he must accept the consequences of his unwarranted actions.

**OFFICE OF THE COURT ADMINISTRATOR vs. PAZ P. CAPISTRANO,
COURT STENOGRAPHER III, REGIONAL TRIAL COURT, QUEZON CITY,
BRANCH 224**

**A.M. No. P-13-3147 July 2, 2014
(Formerly A.M. No. 11-4-78-RTC)**

Jurisprudence dictates that erring court employees who falsify their DTRs are guilty of dishonesty. Further, under Rule XIV, Section 21 of the Civil Service Rules, falsification of official documents, which includes DTRs, and dishonesty are treated as grave offenses. Accordingly, the commission of these acts carries the penalty of dismissal from service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in government service.

The Court reminds every employee of the Judiciary to be an exemplar of integrity, uprightness, and honesty, considering that the sacrosanct image of a Court dispensing justice is mirrored in its very own personnel.

The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice, which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.

EN BANC

**A.C. No. 8000 August 5, 2014
CHAMELYN A. AGOT vs. ATTY. LUIS P. RIVERA**

As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing.

In the instant case, respondent misrepresented himself as an immigration lawyer, which resulted to complainant seeking his assistance to facilitate the issuance of her US visa and paying him the amount of ₱350,000.00 as downpayment for his legal services. In truth, however, respondent has no specialization in immigration law but merely had a contact allegedly with Pineda, a purported US consul, who supposedly processes US visa applications for him. However, respondent failed to prove Pineda's identity considering that the photographs and e-mails he submitted were all self-serving and thus, as correctly observed by the Investigating Commissioner, bereft of any probative value and consequently cannot be given any credence. Undoubtedly, respondent's deception is not only unacceptable, disgraceful, and dishonorable to the legal profession; it reveals a basic moral flaw that makes him unfit to practice law.

Under Rule 18.03, Canon 18 of the CPR, once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable, as in this case.

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Verily, the relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client. Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client, as in this case, gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality as well as of professional ethics.

EN BANC

PRESIDING JUDGE JOSE B. LAGADO and CLERK OF COURT II JOSEFINA C. EMPUESTO, both of the MUNICIPAL TRIAL COURT, MAHAPLAG, LEYTE

vs.

**CLERK II BRYAN ANTONIO C. LEONIDO
A.M. No. P-14-3222 August 12, 2014
(Formerly AM. OCA IPI NO. 11-3609-P)**

Dishonesty is the disposition to lie, cheat, deceive, defraud, or betray; unworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness. It is a malevolent act that makes people unfit to serve the judiciary.

Misconduct, on the other hand, is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.

In this case, the OCA correctly found Leonido guilty of Dishonesty and Gross Misconduct for fraudulently intercepting the subject checks through the use of a falsified authorization letter purportedly signed by Empuesto and keeping such checks in his possession without the complainants' knowledge and authority. The subsequent return of the subject checks to their lawful owners is of no moment as it did not change the unlawful nature of Leonido's acts which is tantamount to stealing. Thievery, no matter how petty, has no place in the judiciary.

It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

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**FELIPE B. ALMAZAN, SR., vs. ATTY. MARCELO B. SUERTE-FELIPE
A.C. No. 7184 September 17, 2014**

For misrepresenting in the said acknowledgment that he was a notary public for and in the City of Marikina, when it is apparent and, in fact, uncontroverted that he was not, respondent further committed a form of falsehood which is undoubtedly anathemato the lawyer's oath. Perceptibly, said transgression also runs afoul of Rule 1.01, Canon 1 of the Code of Professional Responsibility which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

While seemingly appearing to be a harmless incident, respondent's act of notarizing documents in a place outside of or beyond the authority granted by his notarial commission, partakes of malpractice of law and falsification. While perhaps not on all fours because of the slight dissimilarity in the violation involved, what the Court said in *Nunga v. Virayis* very much apropos: Where the notarization of a document is done by a member of the Philippine Bar at a time when he has no authorization or commission to do so, the offender may be subjected to disciplinary action. For one, performing a notarial [act] without such commission is a violation of the lawyer's oath to obey the laws, more specifically, the Notarial Law. Then, too, by making it appear that he is duly commissioned when he is not, he is, for all legal intents and purposes, indulging in deliberate falsehood, which the lawyer's oath similarly proscribes. These violations fall squarely within the prohibition of Rule 1.01 of Canon 1 of the Code of Professional Responsibility, which provides: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

Notarization is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Hence, the requirements for the issuance of a commission as notary public are treated with a formality definitely more than casual.

**REBECCA MARIE UY YUPANGCO-NAKPIL, vs. ATTY. ROBERTO L. UY
A.C. No. 9115 September 17, 2014**

Verily, members of the Bar are expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of the legal profession. By no insignificant measure, respondent blemished not only his integrity as a member of the Bar, but also that of the legal profession. In other words, his conduct fell short of the exacting standards expected of him as a guardian of law and justice.

**RE: ANONYMOUS LETTER vs. JUDGE CORAZON D. SOLUREN, PRESIDING
JUDGE, and RABINDRANATH A. TUZON, LEGAL RESEARCHER II, both of
BRANCH 91, REGIONAL TRIAL COURT, BALER, AURORA
A.M. No. P-14-3217 October 8, 2014
(Formerly OCA IPI NO. 14-4252-RTJ)**

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply a wrongful intention and not a mere error of judgment and

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must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.

In order to differentiate Grave Misconduct from Simple Misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule, must be manifest in the former.

As parting words, court employees like Tuzon would do well to constantly keep in mind that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects its honor and dignity and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

**DOROTHY FE MAH-AREVALO vs. JUDGE CELSO L. MANTUA, REGIONAL
TRIAL COURT OF PALOMPON, LEYTE, BRANCH 17
A.M. No. RTJ-13-2360 November 19, 2014
(Formerly A.M. OCA IPI No. 08-3010-RTJ)**

SC Administrative Circular No. 3-92 explicitly states that the Halls of Justice may only be used for functions related to the administration of justice and for no other purpose: SC ADMINISTRATIVE CIRCULAR NO. 3-92, AUGUST 31, 1992

TO: ALL JUDGES AND COURT PERSONNEL

SUBJECT: PROHIBITION AGAINST USE OF HALLS OF JUSTICE FOR RESIDENTIAL AND COMMERCIAL PURPOSES

All judges and court personnel are hereby reminded that the Halls of Justice may be used only for purposes directly related to the functioning and operation of the courts of justice, and may not be devoted to any other use, least of all as residential quarters of the judges or court personnel, or for carrying on therein any trade or profession.

Attention is drawn to A.M. No. RTJ-89-327 (Nelly Kelly Austria v. Judge Singuat Guerra), a case involving unauthorized and improper use of the court's premises for dwelling purposes by respondent and his family, in which the Court, by Resolution dated October 17, 1991, found respondent Judge guilty of irresponsible and improper conduct prejudicial to the efficient administration of justice and best interest of the service and imposed on him the penalty of SEVERE CENSURE, the Court declaring that such use of the court's premises inevitably degrades the honor and dignity of the court in addition to exposing judicial records to danger of loss or damage.

FOR STRICT COMPLIANCE.

Similar thereto, Section 3, Part I of A.M. No. 01-9-09-SC also provides for similar restrictions regarding the use of the Halls of Justice, to wit:

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

PART I

GENERAL PROVISIONS

X X X X

Sec. 3. USE OF [Halls of Justice] HOJ.

Sec. 3.1. The HOJ shall be for the exclusive use of Judges, Prosecutors, Public Attorneys, Probation and Parole Officers and, in the proper cases, the Registries of Deeds, including their support personnel.

Sec. 3.2. The HOJ shall be used only for court and office purposes and shall not be used for residential, i.e., dwelling or sleeping, or commercial purposes.

Sec. 3.3. Cooking, except for boiling water for coffee or similar beverage, shall not be allowed in the HOJ.

In this case, complainant's evidence had sufficiently established that respondent used his chambers in the Hall of Justice as his residential and dwelling place.

Immorality has been defined "to include not only sexual matters but also 'conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness; or is willful, flagrant, or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude toward good order and public welfare.'" It is a serious charge which may be punishable by any of the following: (a) dismissal from service, forfeiture of all or part of the benefits as the Court may determine except accrued leave credits, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations; (b) suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or (c) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.

Worse, respondent even had the audacity to use his chambers as a haven for their morally depraved acts. In doing so, respondent failed to adhere to the exacting standards of morality and decency which every member of the judiciary is expected to observe. There is no doubt that engaging in an extra marital affair is not only a violation of the moral standards expected of the members and employees of the judiciary but is also a desecration of the sanctity of the institution of marriage which the Court abhors and is, thus, punishable.

FELIPE LAYOS vs. ATTY. MARLITO I. VILLANUEVA
A.C. No. 8085 December 1, 2014

Under Canon 17 and Canon 18, Rules 18.03 and 18.04 of the CPR, it is the lawyer's duty to serve his client's interest with utmost zeal, candor and diligence. As such, he must keep abreast of all the developments in his client's case and should inform the latter of the same, as it is crucial in maintaining the latter's confidence, to wit:

CANON 17 – A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE. x x x x

Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection there with shall render him liable.

Rule 18.04 – A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to client's request for information.

As an officer of the court, it is the duty of an attorney to inform his client of whatever important information he may have acquired affecting his client's case. He should notify his client of any adverse decision to enable his client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and loss of trust and confidence in the attorney. The lawyer should not leave the client in the dark on how the lawyer is defending the client's interests. In this connection, the lawyer must constantly keep in mind that his actions, omissions, or nonfeasance would be binding upon his client. As such, the lawyer is expected to be acquainted with the rudiments of law and legal procedure, and a client who deals with him has the right to expect not just a good amount of professional learning and competence but also a whole-hearted fealty to the client's cause.

It must be stressed that public interest requires that an attorney exert his best efforts in the prosecution or defense of a client's cause. A lawyer who performs that duty with diligence and candor not only protects the interests of his client, he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession. Lawyers are indispensable part of the whole system of administering justice in this jurisdiction. At a time when strong and disturbing criticisms are being hurled at the legal profession, strict compliance with one's oath of office and the canons of professional ethics is an imperative.

**FELISICIMO* R. SABIJON and ZENAIDA A. SABIJON vs.
BENEDICT** M. DE JUAN, SHERIFF IV, REGIONAL TRIAL COURT OF
KABACAN, NORTH COTABATO, BRANCH 22
A.M. No. P-14-3281 January 28, 2015
(Formerly OCA IPI No. 12-3998-P)**

Sheriffs, like respondent being ranking officers of the court and agents of the law, must discharge their duties with great care and diligence. In serving and implementing writs, as well as processes and orders of the court, they cannot afford to err without affecting adversely the proper dispensation of justice. Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them. They should always hold inviolate and invigorate the tenet that a public office is a public trust.

In this light, sheriffs are expected to know the rules of procedure pertaining to their functions as officers of the court, relative to the implementation of writs of execution, and should at all times show a high degree of professionalism in the performance of their duties. Any act deviating from the procedure laid down by the Rules of Court is misconduct that warrants disciplinary action, which may be deemed as Simple Neglect of Duty or even Grave Abuse of Authority.

Simple Neglect of Duty is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or in difference. On the other hand,

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Grave Abuse of Authority has been defined as a misdemeanor committed by a public officer, who under color of his office, wrongfully inflicts upon any person any bodily harm, imprisonment, or other injury; it is an act of cruelty, severity, or excessive use of authority.

**EN BANC
SPOUSES HENRY A. CONCEPCION and BLESILDA S. CONCEPCION vs.
ATTY. ELMER A. DELA ROSA
A.C. No. 10681 February 3, 2015**

Under Rule 16.04, Canon 16 of the CPR, a lawyer is prohibited from borrowing money from his client unless the client's interests are fully protected:

CANON 16 – A lawyer shall hold in trust all moneys and properties of his clients that may come into his possession.

Rule 16.04 – A lawyer shall not borrow money from his client unless the client's interests are fully protected by the nature of the case or by independent advice. Neither shall a lawyer lend money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client."

The Court has repeatedly emphasized that the relationship between a lawyer and his client is one imbued with trust and confidence. And as true as any natural tendency goes, this "trust and confidence" is prone to abuse.

The rule against borrowing of money by a lawyer from his client is intended to prevent the lawyer from taking advantage of his influence over his client. The rule presumes that the client is disadvantaged by the lawyer's ability to use all the legal maneuverings to renege on his obligation. In *Frias v. Atty. Lozada* (Frias) the Court categorically declared that a lawyer's act of asking a client for a loan, as what herein respondent did, is unethical, to wit:

A lawyer's act of asking a client for a loan, as what respondent did, is very unethical. *1âwphi1* It comes within those acts considered as abuse of client's confidence. The canon presumes that the client is disadvantaged by the lawyer's ability to use all the legal maneuverings to renege on her obligation.

In unduly borrowing money from the complainants and by blatantly refusing to pay the same, respondent abused the trust and confidence reposed in him by his clients, and, in so doing, failed to uphold the integrity and dignity of the legal profession. Thus, he should be equally held administratively liable on this score.

**MARY-ANN* S. TORDILLA, COURT STENOGRAPHER III, REGIONAL TRIAL
COURT OF NAGA CITY, CAMARINES SUR, BRANCH 27 vs.
LORNA H. AMILANO, COURT STENOGRAPHER III, REGIONAL TRIAL
COURT OF NAGA CITY, CAMARINES SUR, BRANCH 61
A.M. No. P-14-3241 February 4, 2015
(Formerly OCA IPI No. 11-3672-P)**

Clearly, under the Rules, the term "just debts" may refer not only to claims adjudicated by a court of law but also to claims the existence and justness of which are admitted by the debtor,

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

as respondent in this case. As such, the OCA's classification of respondent's infraction as simple misconduct – instead, of willful refusal to pay just debts – was therefore erroneous.

To expound, while indeed the failure to pay just debts can, broadly speaking, be considered as a form of misconduct since the legal attribution of that term (misconduct) would cover almost every possible "intentional wrongdoing or deliberate violation of a rule of law or standard of behavior," the correct classification of respondent's dereliction should be willful refusal to pay just debts, as it is the latter which specifically constitutes the offense she had committed. When the gravamen of the offense is the unwillingness to pay a just obligation, the more accurate finding would be to hold the errant employee liable for willful failure to pay just debts.

The Court cannot overstress the need for circumspect and proper behavior on the part of court employees. "While it may be just for an individual to incur indebtedness unrestrained by the fact that he is a public officer or employee, caution should be taken to prevent the occurrence of dubious circumstances that might inevitably impair the image of the public office." Employees of the court should always keep in mind that the court is regarded by the public with respect. Consequently, the conduct of each court personnel should be circumscribed with the heavy burden of onus and must at all times be characterized by, among other things, uprightness, propriety and decorum. x x x.

**MELANIO S. SALITA vs. ATTY. REYNALDO T. SALVE
A.C. No. 8101 February 4, 2015**

Verily, a notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and the truth of what are stated therein. These acts of the affiants cannot be delegated because what are stated therein are facts they have personal knowledge of and are personally sworn to. Otherwise, their representative's names should appear in the said documents as the ones who executed the same.

The function of a notary public is, among others, to guard against any illegal or immoral arrangements. By affixing his notarial seal on the instrument, he converted the Deed of Absolute Sale, from a private document into a public document. In doing so, Atty. Salve, as borne from the records of this case, effectively proclaimed to the world that: (a) all the parties therein personally appeared before him; (b) they are all personally known to him; (c) they were the same persons who executed the instruments; (d) he inquired into the voluntariness of execution of the instrument; and (e) they acknowledged personally before him that they voluntarily and freely executed the same.

As a lawyer commissioned to be a notary public, Atty. Salve is mandated to discharge his sacred duties with faithful observance and utmost respect for the legal solemnity of an oath in an acknowledgment or jurat. Having failed in this regard, he must now accept the commensurate consequences of his professional indiscretion. His act of certifying under oath an irregular Deed of Absolute Sale without requiring the personal appearance of the persons executing the same constitutes gross negligence in the performance of duty as a notary public.

**THESE NOTES ARE MEANT TO BE SHARED,
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**SPOUSES WILLIE and AMELIA UMAGUING vs. ATTY. WALLEN R. DE
VERA**

A.C. No. 10451

February 4, 2015

Fundamental is the rule that in his dealings with his client and with the courts, every lawyer is expected to be honest, imbued with integrity, and trustworthy. These expectations, though high and demanding, are the professional and ethical burdens of every member of the Philippine Bar, for they have been given full expression in the Lawyer's Oath that every lawyer of this country has taken upon admission as a bona fide member of the Law Profession.

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility. In this light, Rule 10.01, Canon 10 of the Code of Professional Responsibility provides that "[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."

A case of suspension or disbarment may proceed regardless of interest or lack of interest of the complainant. *1âwphi1* What matters is whether, on the basis of the facts borne out by the record, the charge of deceit and grossly immoral conduct has been proven. This rule is premised on the nature of disciplinary proceedings. A proceeding for suspension or disbarment is not a civil action where the complainant is a plaintiff and the respondent lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare. They are undertaken for the purpose of preserving courts of justice from the official administration of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice.

Disciplinary proceedings against lawyers are designed to ensure that whoever is granted the privilege to practice law in this country should remain faithful to the Lawyer's Oath. Only thereby can lawyers preserve their fitness to remain as members of the Law Profession. Any resort to falsehood or deception, including adopting artifices to cover up one's misdeeds committed against clients and the rest of the trusting public, evinces an unworthiness to continue enjoying the privilege to practice law and highlights the unfitness to remain a member of the Law Profession. It deserves for the guilty lawyer stem disciplinary sanctions.



**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

WILFREDO ANGLO vs. ATTY. JOSE MA. V. VALENCIA, ATTY. JOSE MA. J. CIOCON, ATTY. PHILIP Z. DABAO, ATTY. LILY UYV ALENCIA, ATTY. JOEY P. DE LA PAZ, ATTY. CRIS G. DIONELA, ATTY. RAYMUNDO T. PANDAN, JR.,* ATTY. RODNEY K. RUBICA, and ATTY. WILFRED RAMON M. PENALOSA**

A.C. No. 10567

February 25, 2015

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.

As such, a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste.

As a final point, the Court clarifies that respondents' pronounced liability is not altered by the fact that the labor cases against complainant had long been terminated. Verily, the termination of attorney-client relation provides no justification for a lawyer to represent an interest adverse to or in conflict with that of the former client. The client's confidence once reposed should not be divested by mere expiration of professional employment.

EDUARDO A. MAGLENTE vs. ATTY. DELFIN R. AGCAOILI
March 18, 2015 A.C. No. 10672

It must be stressed that once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion, whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable for violating

Verily, when a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for the intended purpose. Consequently, if the money was not used accordingly, the same must be immediately returned to the client. A lawyer's failure to return the money to his client despite numerous demands is a violation of the trust reposed on him and is indicative of his lack of integrity, as in this case.

Clearly, respondent failed to exercise such skill, care, and diligence as men of the legal profession commonly possess and exercise in such matters of professional employment, and hence, must be disciplined accordingly.

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**2019 PRE BAR POINTS TO PONDER IN LEGAL and JUDICIAL ETHICS,
THE CASE DOCTRINES of the Ponencias of Associate Justice ESTELA M. PERLAS-BERNABE,
Chairperson, 2019 Bar Examinations
PROF. E.H. BALMES**



**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

**MAXIMINO NOBLE III vs. ATTY. ORLANDO O. AILES
A.C. No. 10628 July 1, 2015**

The practice of law is a privilege bestowed on lawyers who meet high standards of legal proficiency and morality. It is a special privilege burdened with conditions before the legal profession, the courts, their clients and the society such that a lawyer has the duty to comport himself in a manner as to uphold integrity and promote the public's faith in the profession. Consequently, a lawyer must at all times, whether in public or private life, act in a manner beyond reproach especially when dealing with fellow lawyers.

Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. *1âwph*

On this score, it must be emphasized that membership in the bar is a privilege burdened with conditions such that a lawyer's words and actions directly affect the public's opinion of the legal profession. Lawyers are expected to observe such conduct of nobility and uprightness which should remain with them, whether in their public or private lives, and may be disciplined in the event their conduct falls short of the standards imposed upon them.

**TERESITA R. MARIGOMEN, CLERK OF COURT, COURT OF APPEALS,
MANILA, v. RONELO G. LABAR, DRIVER, MAILING AND DELIVERY
SECTION, COURT OF APPEALS, CEBU STATION**

**A.M. No. CA-15-33-P
[Formerly OCA IPI No. 13-207-CA-P],
August 24, 2015**

On this score, it bears to stress that no other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the judiciary. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility. Any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. It is the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.¹⁸

**EN BANC
FIRE OFFICER I DARWIN S. SAPPAYANI vs. ATTY. RENATO G. GASMEN
A.C. No. 7073 September 1, 2015**

One of the obligations of a notary public is to authenticate documents acknowledged before him, certifying the truth thereof under his seal of office. When acknowledging a document, it is required that the person who signed or executed the same, appears in person before the notary public and represents to the latter that the signature on the document was voluntarily affixed by him for the purposes stated in the document, declaring the same as his free and voluntary act and deed. Thereafter, the notary public affixes his notarial seal on the instrument which certifies the due execution of the document, and resultantly, converts a private document into a public document which on its face, is entitled to full faith and credit.

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**2019 PRE BAR POINTS TO PONDER IN LEGAL and JUDICIAL ETHICS,
THE CASE DOCTRINES of the Ponencias of Associate Justice ESTELA M. PERLAS-BERNABE,
Chairperson, 2019 Bar Examinations
PROF. E.H. BALMES**



**THESE NOTES ARE MEANT TO BE SHARED,
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In the discharge of his powers and duties, the notary public's certification is one impressed with public interest, accuracy and fidelity such that he owes it to the public to notarize only when the person who signs the document is the same person who executed it and personally appeared before him to attest to his knowledge of the contents stated therein.

Notarization is not an empty, meaningless, or routinary act. It is impressed with substantial public interest, and only those who are qualified or authorized may act as such. It is not a purposeless ministerial act of acknowledging documents executed by parties who are willing to pay fees for notarization. Moreover, notarization of a private document, such as an SP A in this case, converts the document into a public one which, on its face, is given full faith and credit. Thus, the failure of Atty. Gasmien to observe the utmost care in the performance of his duties caused not only damage to those directly affected by the notarized document, but also undermined the integrity of a notary public and tainted the function of notarization.

**ELENA BIETE LEONES VDA. DE MILLER, v. ATTY. ROLANDO B.
MIRANDA
A.C. No. 8507, November 10, 2015**

A notary public is empowered to perform a variety of notarial acts, most common of which are the acknowledgement and affirmation of documents or instruments. In the performance of these notarial acts, the notary public must be mindful of the significance of the notarial seal affixed on documents. The notarial seal converts a document from a private to a public instrument, after which it may be presented as evidence without need of proof of its genuineness and due execution. Thus, notarization should not be treated as an empty, meaningless or routinary act. A notary public exercises duties calling for carefulness and faithfulness.

Notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions. The importance of the functions of a notary public is highlighted in *De Jesus v. Sanchez-Malit* as follows:

The important role a notary public performs cannot be overemphasized. The Court has repeatedly stressed that notarization is not an empty, meaningless routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. **It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.**

In view of such importance, the Notarial Law and the 2004 Rules on Notarial Practice require a duly commissioned notary public to make the proper entries in his Notarial Register and to refrain from committing any dereliction or any act which may serve as cause for the revocation of his commission or the imposition of administrative sanctions.

**FLORANTE A. MIANO v. MA. ELLEN M. AGUILAR
A.M. No. RTJ-15-2408 (Formerly OCA IPI No. 13-4134-RTJ)
March 02, 2016**

To be able to render substantial justice and maintain public confidence in the legal system, judges should be embodiments of competence, integrity and independence. Judges are also

**THESE NOTES ARE MEANT TO BE SHARED,
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expected to exhibit more than just a cursory acquaintance with statutes and procedural rules and to apply them properly in all good faith. They are likewise expected to demonstrate mastery of the principles of law, keep abreast of prevailing jurisprudence, and discharge their duties in accordance therewith.

Corollary thereto, the Court has ruled that when a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. However, gross ignorance of the law is more than an erroneous application of legal provisions.

Not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice. To constitute gross ignorance of the law and for administrative liability to attach, it is not enough that the decision, order or actuation of the judge in the performance of his official duties is contrary to existing law and jurisprudence. It must also be proven that he was moved by bad faith, fraud, dishonesty, or corruption or had committed an error so egregious that it amounted to bad faith.

The rules and jurisprudence are clear on the matter of delay. Failure to decide cases and other matters within the reglementary period constitutes gross inefficiency and warrants the imposition of administrative sanction against the erring magistrate. Judges must decide cases and resolve matters with dispatch because any delay in the administration of justice deprives litigants of their right to a speedy disposition of their case and undermines the people's faith in the judiciary. Indeed, justice delayed is justice denied.

**EN BANC
ALEX NULADA v. ATTY. ORLANDO S. PAULMA
A.C. No. 8172, April 12, 2016**

Canon 1 of the CPR mandates all members of the bar "to obey the laws of the land and promote respect for law x x x." Rule 1.01 thereof specifically provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." By taking the lawyer's oath, a lawyer becomes a guardian of the law and an indispensable instrument for the orderly administration of justice. As such, he can be disciplined for any conduct, in his professional or private capacity, which renders him unfit to continue to be an officer of the court.

In *Enriquez v. De Vera*, the Court discussed the purpose and nature of a violation of BP 22 in relation to an administrative case against a lawyer, as in this case, to wit:

[BP] 22 has been enacted in order to safeguard the interest of the banking system and the legitimate public checking account users. The gravamen of the offense defined and punished by [BP] 22 [x x x] is the act of making and issuing a worthless check, or any check that is dishonored upon its presentment for payment and putting it in circulation; the law is designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient funds, or with no credit, because the practice is deemed a public nuisance, a crime against public order to be abated.

x x x x

Being a lawyer, respondent was well aware of the objectives and coverage of [BP] 22. If he did not, he was nonetheless presumed to know them, for the law was penal in character and



**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

application. His issuance of the unfunded check involved herein knowingly violated [BP] 22, and exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order. He thereby swept aside his Lawyer's Oath that enjoined him to support the Constitution and obey the laws.

Clearly, the issuance of worthless checks in violation of BP Blg. 22 indicates a lawyer's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence, and constitutes a ground for disciplinary action.

In this case, respondent's conviction for violation of BP 22, a crime involving moral turpitude, had been indubitably established. Such conviction has, in fact, already become final. Consequently, respondent violated the lawyer's oath, as well as Rule 1.01, Canon 1 of the CPR, as aptly found by the IBP and, thus, must be subjected to disciplinary action.

As a final word, it should be emphasized that membership in the legal profession is a privilege burdened with conditions. A lawyer is required to observe the law and be mindful of his or her actions whether acting in a public or private capacity. Any transgression of this duty on his part would not only diminish his reputation as a lawyer but would also erode the public's faith in the legal profession as a whole. In this case, respondent's conduct fell short of the exacting standards expected of him as a member of the bar, for which he must suffer the necessary consequences.

**EN BANC
RE: FINDINGS ON THE JUDICIAL AUDIT CONDUCTED AT THE
7TH MUNICIPAL CIRCUIT TRIAL COURT, LILOAN-COMPOSTELA, LILOAN,
CEBU.
A.M. No. 12-8-59-MCTC, April 12, 2016**

Article VIII, Section 15 (1) of the 1987 Constitution mandates lower court judges to decide a case within the reglementary period of ninety (90) days. The Code of Judicial Conduct under Rule 3.05 of Canon 3 likewise directs judges to administer justice without delay and dispose of the courts' business promptly within the period prescribed by law. Rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases.

Thus, the 90-day period is mandatory. In *Re: Cases Submitted for Decision Before Hon. Teresito A. Andoy, former Judge, Municipal Trial Court, Cainta, Rizal*, the Court stressed the importance of deciding cases within the periods prescribed by law and, at the same time, reiterated that a judge's failure to decide a case within the prescribed period constitutes gross inefficiency warranting the imposition of administrative sanctions, to wit:

Judges are enjoined to decide cases with dispatch. Any delay, no matter how short, in the disposition of cases undermines the people's faith and confidence in the judiciary. It also deprives the parties of their right to the speedy disposition of their cases.

The Court has consistently impressed upon judges the need to decide cases promptly and expeditiously under the time-honored precept that justice delayed is justice denied. **Every judge should decide cases with dispatch and should be careful, punctual, and observant in the performance of his functions for delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and**

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brings it into disrepute. Failure to decide a case within the reglementary period is not excusable and constitutes gross inefficiency warranting the imposition of administrative sanctions on the defaulting judge.

The foregoing notwithstanding, the Court is not unmindful of the heavy dockets of the lower courts. Thus, upon their proper application for extension, especially in meritorious cases involving difficult questions of law or complex issues, the Court grants them additional time to decide beyond the reglementary period. In these situations, the judge would not be subjected to disciplinary action.

It is settled that failure to decide or resolve cases within the reglementary period constitutes gross inefficiency.

**EN BANC
A.C. No. 11139, April 19, 2016
PHILCOMSAT* HOLDINGS CORPORATION, DULY REPRESENTED BY
ERLINDA I. BILDNER v. ATTY. LUIS K. LOKIN, JR. AND ATTY. SIKINI C.
LABASTILLA**

At the outset, the Court notes that the indirect contempt case originally filed before the Sandiganbayan is in the nature of a criminal contempt. "[C]riminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect. [C]riminal contempt, being directed against the dignity and authority of the court, is an offense against organized society and, in addition, is also held to be an offense against public justice which raises an issue between the public and the accused, and the proceedings to punish it are punitive."

Since the indirect contempt case is criminal in nature, respondents cannot insist that the filing of an administrative case against them on the basis of the Sandiganbayan's ruling in the aforesaid case is premature on the premise that their conviction has not attained finality. It is well-settled that a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer despite being involved in the same set of facts. Case law instructs that a finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, the lawyer's acquittal does not necessarily exculpate them administratively.

[A]dministrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of criminal cases. A criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings. Besides, it is not sound judicial policy to await the final resolution of a criminal case before a complaint against a lawyer may be acted upon; otherwise, this Court will be rendered helpless to apply the rules on admission to, and continuing membership in, the legal profession during the whole period that the criminal case is pending final disposition, when the objectives of the two proceedings are vastly disparate. **Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare and for preserving courts of justice from the official ministrations of persons unfit to practice law.** The attorney is called to answer to the court for his conduct as an officer of the court.

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As members of the Bar, respondents should not perform acts that would tend to undermine and/or denigrate the integrity of the courts, such as the subject checkbook entry which contumaciously imputed corruption against the Sandiganbayan. It is their sworn duty as lawyers and officers of the court to uphold the dignity and authority of the courts. Respect for the courts guarantees the stability of the judicial institution; without this guarantee, the institution would be resting on very shaky foundations.

This is the very thrust of Canon 11 of the CPR, which provides that "[a] lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others." Hence, lawyers who are remiss in performing such sworn duty violate the aforesaid Canon 11, and as such, should be held administratively liable and penalized accordingly, as in this case.

Furthermore, Canon 7 of the CPR commands every lawyer to "at all times uphold the integrity and dignity of the legal profession" for the strength of the legal profession lies in the dignity and integrity of its members. It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach.⁴⁰ It must be reiterated that as an officer of the court, it is a lawyer's sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice; as acts and/or omissions emanating from lawyers which tend to undermine the judicial edifice is disastrous to the continuity of the government and to the attainment of the liberties of the people. Thus, all lawyers should be bound not only to safeguard the good name of the legal profession, but also to keep inviolable the honor, prestige, and reputation of the judiciary. In this case, respondents compromised the integrity of the judiciary by maliciously imputing corrupt motives against the Sandiganbayan through the subject checkbook entry. Clearly, respondents also violated Canon 7 of the CPR and, thus, should be held administratively liable therefor.

**RONALDO C. FACTURAN v. PROSECUTOR ALFREDO L. BARCELONA,
JR.,
A.C. No. 11069, June 08, 2016**

Generally, a lawyer who holds a government office may not be disciplined as a member of the Bar for misconduct in the discharge of his duties as a government official. He may be disciplined by this Court as a member of the Bar only when his misconduct also constitutes a violation of his oath as a lawyer.

In this regard, Rule 6.02 above-quoted is particularly directed to lawyers in the government service, enjoining them from using one's public position to: (1) promote private interests; (2) advance private interests; or (3) allow private interests to interfere with public duties.

In *Ali v. Bubong*, the Court recognized that private interest is not limited to direct interest, but extends to advancing the interest of relatives.

In this case, respondent's accountability regarding I.S. No. 04-211 has been duly established. When Prosecutor Amerkhan forwarded to respondent the case records of I.S. No. 04-211, together with the resolution recommending the filing of the appropriate information in court, respondent failed to take action thereon, as records are bereft of evidence showing that he either approved or disapproved it.

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Absent any intelligent explanation as regards his lapses in the handling of I.S. No. 04-211 and his failure to timely return the case records thereof for further action, despite the directive to do so, it can only be inferred that respondent **not merely failed, but obstinately and deliberately refused** to perform his duties as a prosecutor. Such refusal, under the circumstances, evidently worked to the advantage of the respondents in I.S. No. 04-21.1 - which included respondent's cousin, Elezar - as the absence of the case records in the office of the Provincial Prosecutor resulted in the delay in the filing of the appropriate criminal information in court against them. Hence, it is apparent that respondent used his public position as a prosecutor to advance and protect the private interest of his relative, which is clearly proscribed in the CPR.

As a lawyer who is also a public officer, respondent miserably failed to cope with the strict demands and high standards of the legal profession.³⁷ It bears stressing that a lawyer in public office is expected not only to refrain from any act or omission which might tend to lessen the trust and confidence of the citizenry in government, he must also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing. Otherwise said, a lawyer in government service is a keeper of the public faith and is burdened with high degree of social responsibility, perhaps higher than her brethren in private practice.

**SPOUSES LAMBERTO V. EUSTAQUIO AND GLORIA J. EUSTAQUIO v.
ATTY. EDGAR R. NAVALES
A.C. No. 10465, June 08, 2016**

It is settled that the Court has the exclusive jurisdiction to regulate the practice of law. As such, when the Court orders a lawyer suspended from the practice of law, he must desist from performing all functions requiring the application of legal knowledge within the period of suspension. This includes desisting from holding a position in government requiring the authority to practice law. The practice of law embraces any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training, and experience. It includes performing acts which are characteristic of the legal profession, or rendering any kind of service which requires the use in any degree of legal knowledge or skill.

Under Section 27, Rule 138 of the Rules of Court, willful disobedience to any lawful order of a superior court and wilfully appearing as an attorney without authority to do so - acts which respondent is guilty of in this case - are grounds for disbarment or suspension from the practice of law.

As a final note, it must be stressed that "[d]isbarment of lawyers is a proceeding that aims to purge the law profession of unworthy members of the bar. It is intended to preserve the nobility and honor of the legal profession. While the Supreme Court has the plenary power to discipline erring lawyers through this kind of proceedings, it does so in the most vigilant manner so as not to frustrate its preservative principle. The Court, in the exercise of its sound judicial discretion, is inclined to impose a less severe punishment if, through it, the end desire of reforming the errant lawyer is possible."³²

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**SPOUSES MANOLO AND MILINIA NUEZCA, v. ATTY. ERNESTO V.
VILLAGARCIA
A.C. No. 8210, August 08, 2016**

In this case, the demand letter that respondent sent to complainants contained not merely a demand for them to settle their monetary obligations to respondent's client, but also used words that maligned their character. It also imputed crimes against them, *i.e.*, that they were criminally liable for worthless or bum checks and *estafa*.

Indeed, respondent could have simply stated the ultimate facts relative to the alleged indebtedness of complainants to his client, made the demand for settlement thereof, and refrained from the imputation of criminal offenses against them, especially considering that there is a proper forum therefor and they have yet to be found criminally liable by a court of proper jurisdiction. Respondent's use of demeaning and immoderate language put complainants in shame and disgrace. Moreover, it is important to consider that several other persons had been copy furnished with the demand letter. As such, respondent could have besmirched complainants' reputation to its recipients.

Though a lawyer's language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession. The use of intemperate language and unkind ascriptions has no place in the dignity of judicial forum.¹⁹ Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, and illuminating but not offensive. In this regard, all lawyers should take heed that they are licensed officers of the courts who are mandated to maintain the dignity of the legal profession, hence, they must conduct themselves honorably and fairly.

EN BANC

A.C. No. 11113, August 09, 2016

**CLEO B. DONGGA-AS, v. ATTY. ROSE BEATRIX CRUZ-ANGELES, ATTY.
WYLIE M. PALER, AND ATTY. ANGELES GRANDEA, OF THE ANGELES,
GRANDEA & PALER LAW OFFICE**

Case law exhorts that, "once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable," as in this case.

It bears stressing that "the relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client. Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client, as in this case, gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality, as well as of professional ethics."

As members of the Bar, Attys. Cruz-Angeles and Paler should not perform acts that would tend to undermine and/or denigrate the integrity of the courts, such as insinuating that they

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can find a "friendly" court and judge that will ensure a favorable ruling in complainant's annulment case. It is their sworn duty as lawyers and officers of the court to uphold the dignity and authority of the courts. Respect for the courts guarantees the stability of the judicial institution. Without this guarantee, the institution would be resting on very shaky foundations.³¹ This is the very thrust of Canon 11 of the CPR, which provides that "[a] lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others." Hence, lawyers who are remiss in performing such sworn duty violate the aforesaid Canon 11, and as such, should be held administratively liable and penalized accordingly, as in this case.

Moreover, Canon 7 of the CPR commands every lawyer to "at all times uphold the integrity and dignity of the legal profession" for the strength of the legal profession lies in the dignity and integrity of its members. It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach. It must be reiterated that as an officer of the court, it is a lawyer's sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice; as acts and/or omissions emanating from lawyers which tend to undermine the judicial edifice is disastrous to the continuity of the government and to the attainment of the liberties of the people. Thus, all lawyers should be bound not only to safeguard the good name of the legal profession, but also to keep inviolable the honor, prestige, and reputation of the judiciary.

**SYLVIA G. CORPUZ vs. CEFERINA B. RIVERA, COURT STENOGRAPHER
III, REGIONAL TRIAL COURT OF DAVAO CITY DAVAO DEL SUR, BRANCH
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**August 30, 2016, A.M. No. P-16-3541
[Formerly OCA IPI No. 12-3915-P]**

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former. Stated differently, if the misconduct does not involve any of the aforesaid qualifying elements, the person charged is only liable for the lesser offense of simple misconduct.

In this case, Rivera ought to have known that as a public servant, she is expected at all times to exhibit the highest sense of honesty and integrity, as expressly commanded by no less than Section 1, Article XI of the 1987 Constitution. Moreover, as an employee of the Judiciary, she should be well aware that the nature of her work demands her highest degree of efficiency and responsibility, and that she would only be able to meet this demand by devoting her undivided time to government service. Essentially, this is the reason why court employees have been enjoined to strictly observe official time and to devote every second or moment of such time to serving the public so as to ensure that undue delays in the administration of justice and in the disposition of court cases be avoided.

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In admittedly engaging in her unauthorized business, Rivera fell short of the standard required of Judiciary employees, let alone public servants in general. Her money-lending activities - which were done even during office hours and within the court premises - surely put the integrity of her office under suspicion, as it gave the impression that she took advantage of her position and abused the confidence reposed in her in doing her business.

It is well to reiterate that "those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public."

**NICOLAS ROBERT MARTIN EGGER v. ATTY. FRANCISCO P. DURAN
A.C. No. 11323, September 14, 2016**

Once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him.

Indubitably, respondent's neglect of a legal matter entrusted him by complainant and Reposo constitutes inexcusable negligence for which he must be held administratively liable.

"The relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client. Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client, as in this case, gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality, as well as of professional ethics

EN BANC

A.C. No. 8560, September 06, 2016

CARRIE-ANNE SHALEEN CARLYLE S. REYES v. ATTY. RAMON F. NIEVA

CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar.

Rule 7.03 - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Good moral character is a trait that every practicing lawyer is required to possess. It may be defined as "what a person really is, as distinguished from good reputation, or from the opinion generally entertained of him, or the estimate in which he is held by the public in the place where he is known.

Moral character is not a subjective term but one which corresponds to objective reality." Such requirement has four (4) ostensible purposes, namely: (a) to protect the public; (b) to protect

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the public image of lawyers; (c) to protect prospective clients; and (d) to protect errant lawyers from themselves.²⁵

Lawyers have been repeatedly reminded by the Court that possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the Bar and to retain membership in the legal profession. This proceeds from the lawyer's bounden duty to observe the highest degree of morality in order to safeguard the Bar's integrity, and the legal profession exacts from its members nothing less. Lawyers are called upon to safeguard the integrity of the Bar, free from misdeeds and acts constitutive of malpractice. Their exalted positions as officers of the court demand no less than the highest degree of morality.

The Court explained in *Arnobit v. Atty. Arnobit* that "**as officers of the court, lawyers must not only in fact be of good moral character but must also be seen to be of good moral character and leading lives in accordance with the highest moral standards of the community. A member of the bar and an officer of the court is not only required to refrain from adulterous relationships or keeping a mistress but must also behave himself so as to avoid scandalizing the public by creating the impression that he is flouting those moral standards.**"

Consequently, any errant behavior of the lawyer, be it in his public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.

Verily, lawyers are expected to abide by the tenets of morality, not only upon admission to the Bar but also throughout their legal career, in order to maintain their good standing in this exclusive and honored fraternity. They may be suspended from the practice of law or disbarred for any misconduct, even if it pertains to his private activities, as long as it shows him to be wanting in moral character, honesty, probity or good demeanor.

Without a doubt, it has been established that respondent habitually watches pornographic materials in his office-issued laptop while inside the office premises, during office hours, and with the knowledge and full view of his staff. Obviously, the Court cannot countenance such audacious display of depravity on respondent's part not only because his obscene habit tarnishes the reputation of the government agency he works for - the CAAP where he was engaged at that time as Acting Corporate Secretary - but also because it shrouds the legal profession in a negative light.

As a lawyer in the government service, respondent is expected to perform and discharge his duties with the highest degree of excellence, professionalism, intelligence, and skill, and with utmost devotion and dedication to duty.

**DATU BUDENCIO E. DUMANLAG, v. ATTY. WINSTON B. INTONG
A.C. No. 8638, October 10, 2016**

It has been consistently held that an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved, and that as an officer of the court, he is presumed to have performed his duties in accordance with his oath. Thus, in disbarment proceedings, the burden of proof rests upon the complainant, and for the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing

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and satisfactory proof. However, in this case, complainant failed to discharge the burden of proving his accusations of gross misconduct on the part of the respondent. Respondent ought to know that orders of the court are "not mere requests but directives which should have been complied with promptly and completely." "He disregarded the oath he took when he was accepted to the legal profession 'to obey the laws and the legal orders of the duly constituted legal authorities.'

It has been stressed that the determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion. The penalties for a lawyer's failure to file a brief or other pleading range from reprimand, warning with fine, suspension, and, in grave cases, disbarment.

**MARIA VICTORIA G. BELO-HENARES v. ATTY. ROBERTO "ARGE" C.
GUEVARRA,
A.C. No. 11394, December 01, 2016**

At the outset, the Court notes that respondent never denied that he posted the purportedly vulgar and obscene remarks about complainant and BMGI on his Facebook account. In defense, however, he invokes his right to privacy, claiming that they were "private remarks" on his "private account"⁵⁷ that can only be viewed by his circle of friends. Thus, when complainant accessed the same, she violated his constitutionally guaranteed right to privacy.

The defense is untenable.

Facebook is currently the most popular social media site, having surpassed one (1) billion registered accounts and with 1.71 billion monthly active users. *Social media* are web-based platforms that enable online interaction and facilitate users to generate and share content. There are various classifications of social media platforms and one can be classified under the "social networking sites" such as Facebook.

Facebook is a "voluntary social network to which members subscribe and submit information. x x x It has a worldwide forum enabling friends to share information such as thoughts, links, and photographs, with one another." Users register at this site, create a personal profile or an open book of who they are, add other users as friends, and exchange messages, including automatic notifications when they update their profile. A user can post a statement, a photo, or a video on Facebook, which can be made visible to anyone, depending on the user's privacy settings.

Consequently, before one can have an expectation of privacy in his or her online social networking activity - in this case, Facebook - it is first necessary that said user manifests the intention to keep certain posts private, through the employment of measures to prevent access thereto or to limit its visibility. This intention can materialize in cyberspace through the utilization of Facebook's privacy tools. In other words, utilization of these privacy tools is the manifestation, in the cyber world, of the user's invocation of his or her right to informational privacy.

The bases of the instant complaint are the Facebook posts maligning and insulting complainant, which posts respondent insists were set to private view. However, the latter has failed to offer evidence that he utilized any of the privacy tools or features of Facebook available to him to protect his posts, or that he restricted its privacy to a select few. Therefore, without any positive evidence to corroborate his statement that the subject posts, as well as

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the comments thereto, were visible only to him and his circle of friends, respondent's statement is, at best, self-serving, thus deserving scant consideration.

Restricting the privacy of one's Facebook posts to "Friends" does not guarantee absolute protection from the prying eyes of another user who does not belong to one's circle of friends. The user's own Facebook friend can share said content or tag his or her own Facebook friend thereto, regardless of whether the user tagged by the latter is Facebook friends or not with the former. Also, when the post is shared or when a person is tagged, the respective Facebook friends of the person who shared the post or who was tagged can view the post, the privacy setting of which was set at "Friends." Under the circumstances, therefore, respondent's claim of violation of right to privacy is negated.

Neither can the Court accept the argument that the subject remarks were written in the exercise of his freedom of speech and expression.

Time and again, it has been held that the freedom of speech and of expression, like all constitutional freedoms, is not absolute.

While the freedom of expression and the right of speech and of the press are among the most zealously protected rights in the Constitution, every person exercising them, as the Civil Code stresses, is obliged to act with justice, give everyone his due, and observe honesty and good faith. As such, the constitutional right of freedom of expression may not be availed of to broadcast lies or half-truths, insult others, destroy their name or reputation or bring them into disrepute.

A punctilious scrutiny of the Facebook remarks complained of disclosed that they were ostensibly made with malice tending to insult and tarnish the reputation of complainant and BMGI. Calling complainant a "quack doctor," "*Reyna ng Kaplastikan*," "*Reyna ng Payola*," and "*Reyna ng Kapalpakan*," and insinuating that she has been bribing people to destroy respondent smacks of bad faith and reveals an intention to besmirch the name and reputation of complainant, as well as BMGI.

Rule 7.03 - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Rule 8.01 - A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

Rule 19.01 - A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

By posting the subject remarks on Facebook directed at complainant and BMGI, respondent disregarded the fact that, as a lawyer, he is bound to observe proper decorum at all times, be it in his public or private life. He overlooked the fact that he must behave in a manner befitting of an officer of the court, that is, respectful, firm, and decent. Instead, he acted inappropriately and rudely; he used words unbecoming of an officer of the law, and conducted himself in an aggressive way by hurling insults and maligning complainant's and BMGI's reputation.

That complainant is a public figure and/or a celebrity and therefore, a public personage who is

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exposed to criticism does not justify respondent's disrespectful language. It is the cardinal condition of all criticism that it shall be *bona fide*, and shall not spill over the walls of decency and propriety.⁷³ In this case, respondent's remarks against complainant breached the said walls, for which reason the former must be administratively sanctioned.

"Lawyers may be disciplined even for any conduct committed in their private capacity, as long as their misconduct reflects their want of probity or good demeanor, a good character being an essential qualification for the admission to the practice of law and for continuance of such privilege. When the Code of Professional Responsibility or the Rules of Court speaks of conduct or misconduct, the reference is not confined to one's behavior exhibited in connection with the performance of lawyers' professional duties, but also covers any misconduct, which—albeit unrelated to the actual practice of their profession—would show them to be unfit for the office and unworthy of the privileges which their license and the law invest in them."

EN BANC

**RE: COMPLAINT OF AERO ENGR. DARWIN A. RECI AGAINST COURT
ADMINISTRATOR JOSE MIDAS P. MARQUEZ AND DEPUTY COURT
ADMINISTRATOR THELMA C. BAHIA RELATIVE TO CRIMINAL CASE NO.
05-236956**

A.M. No. 17-01-04-SC, February 07, 2017

Dereliction of duty may be classified as gross or simple neglect of duty or negligence. Gross neglect of duty or gross negligence "refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property." It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable. In contrast, simple neglect of duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a "disregard of a duty resulting from carelessness or indifference.

EN BANC

**JUDGE BENSAUDI A. ARABANI, JR., v. RAHIM A. ARABANI, JUNIOR
PROCESS SERVER, AND ABDURAJI G. BAKIL, UTILITY WORKER I, BOTH
FROM SHARI'A CIRCUIT COURT, MAIMBUNG, SULU**

A.M. No. SCC-10-14-P (Formerly OCA IPI No. 09-31-SCC-P)

February 21, 2017

Dishonesty is defined as the "disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity." As correctly ruled by the OCA, Abduraji and Rahim are guilty of dishonesty by committing irregularities in the punching of Rahim's bundy card/DTR on three (3) occasions, *i.e.*, on the subject incidents. **The punching of a court employee's DTR is a personal act of the holder which cannot and should not be delegated to anyone else.**

Moreover, every court employee has the duty to truthfully and accurately indicate the time of his arrival at and departure from the office. Thus, case law holds that **falsification of DTRs is**



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an act of dishonesty and is reflective of respondent's fitness to continue in office and of the level of discipline and morale in the service, rendering him administratively liable in accordance with Section 4, Rule XVII of the Civil Service Rules.

Under Section 22, Rule XIV of the Civil Service Rules, falsification of official documents (such as DTRs) and dishonesty are both grave offenses for which the penalty of dismissal is meted even for first time offenders. Nonetheless, while it is the Court's duty to sternly wield a corrective hand to discipline its errant employees and to weed out those who are undesirable, it also has the discretion to temper the harshness of its judgment with mercy, taking in mind that the objective for discipline is not their punishment, but the improvement of the public service, and the preservation of the public's faith and confidence in the government.

In this relation, Section 48, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty. Among the circumstances jurisprudentially held as mitigating include, among others, the erring individual's admission of guilt, remorse, high performance rating, and the fact that the infraction complained of is his/her first offense.

Insubordination is defined as a refusal to obey some order, which a superior officer is entitled to give and have obeyed, and imports a **willful or intentional disregard** of the lawful and reasonable instructions of the Judge.

While the mere failure to file a leave of absence in advance does not *ipso facto* render an employee administratively liable, **the unauthorized leave of absence becomes punishable if the absence is frequent or habitual**. An officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the Leave law at least three (3) months in a semester or at least three (3) consecutive months during the year. the justice system.

Court officials and employees are at all times behooved to *strictly* observe official time because the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the last and lowest of its employees.⁹⁶ Loafing results in inefficiency and non-performance of duty, and adversely affects the prompt delivery of justice.

Section 3 of the "Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary" defines work-related sexual harassment as follows:

Section 3. *Work-related Sexual harassment; definition.* – Work-related sexual harassment is committed by an official or an employee in the Judiciary who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter.

Section 4 of the same rules provides the modes of commission of the said act, to wit:

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Section 4. *Work-related Sexual harassment; how committed.* — Work-related sexual harassment is committed when:

(a) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in anyway would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee. It shall include, but shall not be limited to, the following modes:

1. Physical, such as malicious touching, overt sexual advances, and gestures with lewd insinuation.
2. Verbal, such as requests or demands for sexual favors, and lurid remarks.
3. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
4. Other acts analogous to the foregoing.

(b) The above acts would impair the employee's rights or privileges under existing laws; or

(c) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

Section 53, Rule X of Civil Service Commission (CSC) Resolution No. 01-0940, otherwise known as the "Administrative Disciplinary Rules on Sexual Harassment Cases", classifies sexual harassment into grave, less grave and light offenses, *viz.:*

Section 53. Sexual harassment is classified as grave, less grave and light offenses.

A. Grave Offenses shall include, but are not limited to:

1. unwanted touching of private parts of the body (genitalia, buttocks and breast);
2. sexual assault;
3. malicious touching;
4. requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance, and
5. other analogous cases.

B. Less Grave Offenses shall include, but are not limited to:

1. unwanted touching or brushing against a victim's body;
 2. pinching not falling under grave offenses;
 3. derogatory or degrading remarks or innuendoes directed toward the members of one sex,
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or one's sexual orientation or used to describe a person;

4. verbal abuse with sexual overtones; and

5. other analogous cases.

C. The following shall be considered Light Offenses;

1. surreptitiously looking or staring a look of a person's private part or worn undergarments;

2. telling sexist/smutfy jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advise, when they are by their nature clearly embarrassing, offensive or vulgar;

3. malicious leering or ogling;

4. the display of sexually offensive pictures, materials or graffiti;

5. unwelcome inquiries or comments about a person's sex life;

6. unwelcome sexual flirtation, advances, propositions;

7. making offensive hand or body gestures at an employee;

8. persistent unwanted attention with sexual overtones;

9. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and

10. other analogous cases.

The distasteful act by Judge Arabani of making a drawing of a vagina and a penis, and thereafter showing it to an employee of the court of which he is an officer constitutes sexual harassment. It is an act that constitutes a physical behavior of a sexual nature; a gesture with lewd insinuation.

**ROSA YAP PARAS v. JUSTO DE JESUS PARAS
A.C. No. 5333, March 13, 2017**

Generally, the IBP's formal investigation is a mandatory requirement which may not be dispensed with, except for valid and compelling reasons, as it is essential to accord both parties an opportunity to be heard on the issues raised. Absent a valid fact-finding investigation, the Court usually remands the administrative case to the IBP for further proceedings. However, in light of the foregoing circumstances, as well as respondent's own admission that he resumed practicing law even without a Court order lifting his suspension, the Court finds a compelling reason to resolve the matters raised before it even without the IBP's factual findings and recommendation thereon.

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According to jurisprudence, the "practice of law embraces any activity, in or out of court, which requires the application of law, as well as legal principles, practice or procedure[,] and calls for legal knowledge, training[,] and experience." During the suspension period and before the suspension is lifted, a lawyer must desist from practicing law. It must be stressed, however, that a lawyer's suspension is not automatically lifted upon the lapse of the suspension period. The lawyer must submit the required documents and wait for an order from the Court lifting the suspension before he or she resumes the practice of law.

**RE: DROPPING FROM THE ROLLS OF ROWIE A. QUIMNO, UTILITY
WORKER I, MUNICIPAL CIRCUIT TRIAL COURT OF IPIL - TUNGAWAN -
ROSELLER T. LIM, LPIL, ZAMBOANGA SIBUGAY.
A.M. No. 17-03-33-MCTC, April 17, 2017**

Prolonged unauthorized absence causes inefficiency in the public service. A court employee's continued absence without leave disrupts the normal functions of the court. It contravenes the duty of a public servant to serve with the utmost degree of responsibility, integrity, loyalty, and efficiency. The Court stresses that a court personnel's conduct is laden with the heavy burden of responsibility to uphold public accountability and maintain people's faith in the judiciary.

**ELEANOR OLYMPIA-GERONILLA AND EMMA OLYMPIA GUTIERREZ,
REPRESENTED BY ATTY. BEATRIZ O. GERONILLA-
VILLEGAS, v. RICARDO V. MONTEMAYOR, JR., SHERIFF IV AND ATTY.
LUNINGNING CENTRON, CLERK OF COURT VI AND EX- OFFICIO SHERIFF
A.M. No. P-17-3676 (formerly OCA IPI No. 12-3985-P), June 05, 2017**

The last standing frontier that the victorious litigant must face is often another difficult process - the execution stage. In this stage, a litigant who has won the battle might lose the war. Thus, the sheriffs, being agents of the court, play an important role, particularly in the matter of implementing the writ of execution. Indeed, [sheriffs] "are tasked to execute final judgments of courts. If not enforced, such decisions are empty victories of the prevailing parties. They must therefore comply with their **mandated ministerial duty to implement writs promptly and expeditiously**. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its order, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice."

Engraved in jurisprudence is the rule that the sheriff's duty in the execution of a writ is *purely ministerial*. Once the writ is placed in his or her hands, a sheriff is obligated to execute the order of the court strictly to the letter and with reasonable promptness, taking heed of the prescribed period required by the Rules.

Absent any instruction by a court to the contrary, he is mandated to proceed with reasonable celerity and promptness in implementing the writ. If for any reason, he cannot do so in part or in full, his duty is outlined in Section 14, Rule 39 of the Rules of Court which, unfortunately, he likewise failed to observe.

**THESE NOTES ARE MEANT TO BE SHARED,
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A sheriff's conduct of unilaterally demanding sums of money from a party-litigant purportedly to defray expenses of execution, without obtaining the approval of the trial court for such supposed expense and without rendering an accounting constitutes dishonesty and extortion and falls short of the required standards of public service. Such conduct threatens the very existence of the system of administration of justice.

EN BANC

**MAURA JUDAYA AND ANA AREVALO v. RAMIRO F. BALBONA
A.M. No. P-06-2279 (Formerly OCA IPI No. 06-2452-P), June 06, 2017**

Preliminarily, it is worthy to emphasize that the precipitate resignation of a government employee charged with an offense punishable by dismissal from service does not render moot the administrative case against him.

Resignation is not a way out to evade administrative liability when facing administrative sanction. The resignation of a public servant does not preclude the finding of any administrative liability to which he or she shall still be answerable.

A case becomes moot and academic only when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case. **The instant case is not moot and academic, despite the petitioner's separation from government service. Even if the most severe of administrative sanctions – that of separation from service – may no longer be imposed on the petitioner, there are other penalties which may be imposed on her if she is later found guilty of administrative offenses charged against her, namely, the disqualification to hold any government office and the forfeiture of benefits.**

Moreover, this Court views with suspicion the precipitate act of a government employee in effecting his or her separation from service, soon after an administrative case has been initiated against him or her. An employee's act of tendering his or her resignation immediately after the discovery of the anomalous transaction is indicative of his or her guilt as flight in criminal cases.

In order to sustain a finding of administrative culpability for such offense, only substantial evidence is required, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion.

As a final note, "[i]t must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

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EN BANC

**RE: LETTER OF LUCENA OFENDOREYES ALLEGING ILLICIT ACTIVITIES
OF A CERTAIN ATTY. CAJAYON INVOLVING CASES IN THE COURT OF
APPEALS, CAGAYAN DE ORO CITY
A.M. No.16-12-03-CA, June 06, 2017**

Under the Rules of Court, administrative complaints both against lawyers and judges of regular and special courts as well as Justices of the Court of Appeals and the Sandiganbayan must be verified and supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations.

For lawyers, these requirements are stated in Section 1, Rule 139-B of the Rules of Court:

SECTION 1. *How Instituted.* — Proceedings for the disbarment, suspension, or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. **The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.**

Meanwhile, for judges and Justices of the Court of Appeals and the Sandiganbayan, the requirements are found in Section 1, Rule 140 of the Rules of Court:¹⁰

SECTION 1. *How instituted.* — Proceedings for the discipline of Judges of regular and special courts and Justices of the Court of Appeals and the Sandiganbayan may be instituted *motu proprio* by the Supreme Court or upon **a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations,** or upon an anonymous complaint, supported by public records of indubitable integrity. The complaint shall be in writing and shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for Judges by law, the Rules of Courts or the Code of Judicial Conduct.

In this relation, Section 2 of Rule 140 states that:

SECTION 2. *Action on the complaint.* — If the complaint is sufficient in form and substance, a copy thereof shall be served upon the respondent, and he shall be required to comment within ten (10) days from the date of service. **Otherwise, the same shall be dismissed.** (Emphasis supplied)

In these cases, it is evident that the herein complaints lacked the foregoing requirements. Complainants' respective single page letter-complaints are indisputably unverified, and bereft of any supporting affidavits or documents that would support the charges made against herein respondents. Overall, they contain bare allegations that, unfortunately, have no factual or legal anchorage.

Jurisprudence dictates that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense. The same goes with administrative cases disciplining for grave offense court employees or magistrates. The evidence against the respondent should be competent and should be derived from direct knowledge.

**THESE NOTES ARE MEANT TO BE SHARED,
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**ROMULO DE MESA FESTIN vs. ATTY. ROLANDO V. ZUBIRI
A.C. No. 11600, June 19, 2017**

Any final action on a lawyer's administrative liability shall be done by the Court based on the entire records of the case, including the IBP Board's recommendation, without need for the lawyer-respondent to file any additional pleading.

The difference between a manifestation and a motion is essential in determining respondent's administrative liability. *1âwphi1*

A manifestation is usually made merely for the information of the court, unless otherwise indicated. In a manifestation, the manifesting party makes a statement to inform the court, rather than to contest or argue.

In contrast, a motion is an application for relief from the court other than by a pleading and must be accompanied by a notice of hearing and proof of service to the other party, unless the motion is not prejudicial to the rights of the adverse party. Settled is the rule that a motion without notice of hearing is *proforma* or a mere scrap of paper; thus, the court has no reason to consider it and the clerk has no right to receive it. The reason for the rule is simple: to afford an opportunity for the other party to agree or object to the motion before the court resolves it. This is in keeping with the principle of due process.

In the present case, respondent filed five (5) manifestations before the COC praying for affirmative reliefs. The Court agrees with the IBP that these "manifestations" were in fact motions, since reliefs were prayed for from the court - particularly, the issuance of the writ of execution pending appeal. By labelling them as manifestations, respondent craftily sidestepped the requirement of a notice of hearing and deprived the other party of an opportunity to oppose his arguments. Moreover, the fact that he submitted these manifestations directly to COC, instead of properly filing them before the RTC, highlights his failure to exhibit fairness towards the other party by keeping the latter completely unaware of his manifestations. Undoubtedly, respondent violated his professional obligations under the CPR.

The Court has the plenary power to discipline erring lawyers. In the exercise of its sound judicial discretion, it may to impose a less severe punishment if such penalty would achieve the desired end of reforming the errant lawyer. In light of the foregoing discussion, the Court deems that a penalty of suspension from the practice of law for three (3) months is sufficient and commensurate with respondent's infractions.

As a final note, the Court stresses that a lawyer's primary duty is to assist the courts in the administration of justice. Any conduct that tends to delay, impede, or obstruct the administration of justice contravenes this obligation. Indeed, a lawyer must champion his client's cause with competence and diligence, but he cannot invoke this as an excuse for his failure to exhibit courtesy and fairness to his fellow lawyers and to respect legal processes designed to afford due process to all stakeholders.

**OSCAR C. RIZALADO, vs. PRESIDING JUDGE GIL G. BOLLOZOS
OCA IPI No. 11-3800-RTJ, June 19, 2017**

It is well-settled that "in administrative proceedings, the burden of proof that respondents committed the acts complained of rests on the complainant. x x x. Bare allegations of bias

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**2019 PRE BAR POINTS TO PONDER IN LEGAL and JUDICIAL ETHICS,
THE CASE DOCTRINES of the Ponencias of Associate Justice ESTELA M. PERLAS-BERNABE,
Chairperson, 2019 Bar Examinations
PROF. E.H. BALMES**



**THESE NOTES ARE MEANT TO BE SHARED,
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and partiality are not enough in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor. There should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that may be inferred from the decision or order itself."

In this case, the charges of bias and partiality against respondent have not been substantiated.

Moreover, it has been held that "the filing of an administrative complaint is not the proper remedy for the correction of actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient judicial remedy exists."

"The law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The *ordinary remedies* against errors or irregularities which may be regarded as normal in nature (*i.e.*, error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The *extraordinary remedies* against error or irregularities which may be deemed extraordinary in character (*i.e.*, whimsical, capricious, despotic exercise of power or neglect of duty, *etc.*) are [, *inter alia,*] the special civil actions of *certiorari*, prohibition or *mandamus*, or a motion for inhibition, a petition for change of venue, as the case may be."

Relative thereto, "disciplinary proceedings and criminal actions against judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed."

It bears to stress that respondent is legally clothed with judicial discretion in the disposition of cases, which involves the exercise of judgment. As a judge, he must be allowed reasonable latitude for the operation of his own individual view of the case, his appreciation of the facts, and his understanding of the applicable law on the matter. "To hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming he has erred, would be nothing short of harassment and would make his position doubly unbearable. To hold otherwise would be to render judicial office untenable, for no one called upon to try facts or interpret the law in the process of administering justice can be infallible in his judgment. It is only where the error is so gross, deliberate and malicious, or incurred with evident bad faith that administrative sanctions may be imposed against the erring judge."

**JUDGE CELSO O. BAGUIO vs. JOCELYN P. LACUNA, COURT
STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 34, GAPAN
CITY, NUEVA ECIJA
A.M. No. P-17-3709, June 19, 2017**

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The conduct of every person connected with the administration of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility. All public officers are accountable to the people at all time and must perform their duties and responsibilities with utmost efficiency and competence. As administration of justice is a sacred task, the Court condemns any omission or act which would erode public faith in the judiciary. A public office is a public trust, and a court stenographer, without doubt, violates this trust by failing to fulfill his duties.

**SPOUSES GERARDO MONTECILLO and DOMINGA SALONoy vs.
ATTY. EDUARDO Z. GATCHALIAN
A.C. No. 8371, June 28, 2017**

Every lawyer is duty-bound to serve his clients with utmost diligence and competence, and never neglect a legal matter entrusted to him. A lawyer owes fidelity to the clients' cause and, accordingly is expected to exercise the required degree of diligence in handling their affairs. Consequently, he is expected to maintain at all times a high standard of legal proficiency, and to devote one's full attention, skill, and competence to the case, whether it is accepted for a fee or for free.

Jurisprudence provides that the lawyer's duties of competence and diligence include not merely reviewing cases or giving sound legal advice, but also consist of properly representing a client before any court or tribunal, attending scheduled hearings and conferences, preparing and filing the required pleadings, prosecuting handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him to do so. A lawyer's negligence in fulfilling these duties subjects him to disciplinary action.

Guided by these edicts, the Court rules that respondent failed to exercise the diligence required of lawyers in handling complainants' case. Based on the records, he failed to file the necessary motion to postpone the hearing due to a conflict in his schedule, and as a result, complainants lost their opportunity to present their evidence in the ejectment case. As complainants' counsel in the ejectment case, respondent was expected to exercise due diligence. He should have been more circumspect in preparing and filing the motion, considering the serious consequence of failure to attend the scheduled preliminary conference - *i.e.* the defendant's failure to appear thereat entitles the plaintiff to a judgment, as what happened in this case.

To be clear, a lawyer need not wait for their clients to ask for information but must advise them without delay about matters essential for them to avail of legal remedies. In the present case, respondent failed to immediately notify complainants about the adverse decision of the trial court. Had the complainants not inquired with the trial court, they would have lost their opportunity to appeal. For this reason, respondent is also administratively liable for negligence under Rule 18.04 of the CPR.

**JOY T. SAMONTE vs. ATTY. VIVENCIO V. JUMAMIL
A.C. No. 11668, July 17, 2017**

The relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect that lawyers would be ever-mindful of their cause, and accordingly, exercise the required degree of diligence in handling their affairs. Accordingly, lawyers are required to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill, and competence to their cases, regardless

**THESE NOTES ARE MEANT TO BE SHARED,
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of their importance, and whether they accept them for a fee or for free. To this end, lawyers are enjoined to employ only fair and honest means to attain lawful objectives.

Once a lawyer agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care, and devotion. Otherwise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.

In light of the foregoing, the Court therefore agrees with the IBP that respondent should be held administratively liable for violation of Rule 18.03, Canon 18 of the CPR.

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility. In this light, Rule 10.01, Canon 10 of the Code of Professional Responsibility provides that "[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

Notably, the notarization of a perjured affidavit also constituted a violation of the 2004 Rules on Notarial Practice. Section 4 (a), Rule IV thereof pertinently provides:

SEC. 4. Refusal to Notarize. - A notary public shall not perform any notarial act described in these Rules for any person requesting such an act even if he tenders the appropriate fee specified by these Rules if:

(a) the notary knows or has good reason to believe that the notarial act or transaction is unlawful or immoral[.] (Emphasis supplied)

On this score, it is well to stress that "notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. It must be underscored that the notarization by a notary public converts a private document into a public document, making that document admissible in evidence without further proof of authenticity thereof. A notarial document is, by law, entitled to full faith and credit upon its face. For this reason, a notary public must observe with utmost care the basic requirements in the performance of their duties; otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined."

**THESE NOTES ARE MEANT TO BE SHARED,
SHARING THEM IS A GOOD KARMA WAITING TO HAPPEN☺**

NANETTE B. SISON, represented by DELIA B. SARABIA

VS.

ATTY. SHERDALE M. VALDEZ

A.C. No. 11663, July 31, 2017

Once a lawyer takes up the cause of his client, a lawyer is duty-bound to serve the latter with competence and to attend to such client's cause with diligence, care, and devotion. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. In this relation, a lawyer has the duty to apprise his client of the status and developments of the case and all other relevant information.

In this case, respondent alleged that he waited for complainant's arrival in the Philippines in November 2012 to personally report on his accomplishments, to have the necessary pleadings signed, and to explain how the money given will be applied. However, the meeting did not push through.

Indeed, respondent cannot justify his non-compliance by shifting the blame to complainant for failing to meet with him, especially so that he failed to inform his client of the pleadings she needed to sign.

The highly fiduciary nature of an attorney-client relationship imposes on a lawyer the duty to account for the money or property collected or received for or from his client. Money entrusted to a lawyer for a specific purpose, such as for the filing and processing of a case, if not utilized, must be returned immediately upon demand.

VICKA MARIE D. ISALOS vs. ATTY. ANA LUZ B. CRISTAL

A.C. No. 11822, November 22, 2017

The practice of law is considered a privilege bestowed by the State on those who possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms embodied in the Code. "Lawyers may, thus, be disciplined for any conduct that is wanting of the above standards whether in their professional or in their private capacity."

Money entrusted to a lawyer for a specific purpose, such as for the processing of transfer of land title, but not used for the purpose, should be immediately returned. A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed to him by his client. Such act is a gross violation of general morality, as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment.

A proceeding for suspension or disbarment is not a civil action where the complainant is a plaintiff and the respondent-lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare, and for the purpose of preserving courts of justice from the official ministrations of persons unfit to practice. The attorney is called to answer to the court for his conduct as an officer of the court. "The complainant or the person who called the attention of the court to the attorney's alleged misconduct x x x has generally no interest in the

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**2019 PRE BAR POINTS TO PONDER IN LEGAL and JUDICIAL ETHICS,
THE CASE DOCTRINES of the Ponencias of Associate Justice ESTELA M. PERLAS-BERNABE,
Chairperson, 2019 Bar Examinations**

PROF. E.H. BALMES

GO VOTE



MOVEMENT

**THESE NOTES ARE MEANT TO BE SHARED,
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outcome except as all good citizens may have in the proper administration of justice." The real question for determination in these proceedings is whether or not the attorney is still a fit person to be allowed the privileges of a member of the bar.

**RE: DROPPING FROM THE ROLLS OF LEMUEL H. VENDIOLA,
SHERIFF IV, OFFICE OF THE CLERK OF COURT (OCC), REGIONAL TRIAL
COURT OF BIÑAN CITY, LAGUNA (RTC).
A.M. No. 17-11-272-RTC, January 31, 2018**

Vendiola's prolonged unauthorized absences caused inefficiency in the public service as it disrupted the normal functions of the court. It contravened the duty of a public servant to serve with the utmost degree of responsibility, integrity, loyalty, and efficiency. It should be reiterated and stressed that a court personnel's conduct is circumscribed with the heavy responsibility of upholding public accountability and maintaining the people's faith in the judiciary. By failing to report for work since April 2012 up to the present, Vendiola grossly disregarded and neglected the duties of his office. Undeniably, he failed to adhere to the high standards of public accountability imposed on all those in the government service.

**ATTY. BENIGNO T. BARTOLOME vs. ATTY. CHRISTOPHER A. BASILIO
A.C. No. 10783, January 31, 2018**

Irrefragably, the clause "effective immediately" was placed at the end of the enumerated series of penalties to indicate that the same pertained to and therefore, qualified all three (3) penalties, which clearly include his suspension from the practice of law. The immediate effectivity of the order of suspension - not just of the revocation and prohibition against his notarial practice - logically proceeds from the fact that all three (3) penalties were imposed on Basilio as a result of the Court's finding that he failed to comply with his duties as a notary public, in violation of the provisions of the 2004 Rules of Notarial Practice, and his sworn duties as a lawyer, in violation of Rule 1.01, Canon 1 of the Code of Professional Responsibility. Thus, with the Decision's explicit wording that the same was "effective immediately", there is no gainsaying that Basilio's compliance therewith should have commenced immediately from his receipt of the Decision on December 2, 2015. On this score, Basilio cannot rely on the *Maniago* ruling as above-claimed since it was, in fact, held therein that a decision is immediately executory upon receipt thereof if the decision so indicates, as in this case.

**EN BANC
OFFICE OF THE COURT ADMINISTRATOR v. PAULINO I. SAGUYOD,
BRANCH CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 67,
PANIQUI, TARLAC
A.M. No. P-17-3705, February 06, 2018**

Inefficiency involves specific acts or omission on the part of the employee which results in the damage to the employer or to the latter's business. It is akin to neglect of duty, which is the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference.

As a final note, it must be stressed that "Public officers must be accountable to the people at all times and serve them with the utmost degree of responsibility and efficiency. Any act which falls short of the exacting standards for public office, especially on the part of those expected

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to preserve the image of the judiciary, shall not be countenanced. It is the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice

**JULIUS E. PADUGA v. ROBERTO "BOBBY" R. DIMSON, SHERIFF IV,
REGIONAL TRIAL COURT OF VALENZUELA CITY, BRANCH 171
A.M. No. P-18-3833 (Formerly OCA IPI No. 14-4370-P), April 16, 2018**

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth. Under CSC, Resolution No. 06-0538, dishonesty may be classified as serious, less serious or simple. Section 4 of said Resolution states that Less Serious Dishonesty necessarily entails the presence of any one of the following: circumstances: (a) the dishonest act caused damage and prejudice to the government which is not so serious as to qualify under Serious Dishonesty; (b) the respondent did not take advantage of his/her position in committing the dishonest act; and (c) other analogous circumstances.

Finally, Simple Neglect of Duty means the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference.

**HERNANIE P. DANDOY v. ATTY. ROLAND G. EDAYAN
A.C. No. 12084, June 06, 2018**

Time and again, the Court has emphasized that the act of notarization is impressed with public interest. Notarization converts a private document to a public document, making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full faith and credence. As such, a notary public must observe with utmost care the basic requirements in the performance of his duties in order to preserve the confidence of the public in the integrity of the notarial system. In this light, the Court has ruled that notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.

The 2004 Rules on Notarial Practice provides that a notary public should not notarize a document unless the signatory to the document is in the notary's presence personally at the time of the notarization, and personally known to the notary public or otherwise identified through competent evidence of identity. Section 12, Rule II of the same rules defines "competent evidence of identity" as follows:

Section 12. *Competent Evidence of Identity.*- The phrase "competent evidence of identity" refers to the identification of an individual based on:

(a)

at least **one current identification document issued by an official agency bearing the photograph and signature of the individual**; or

(b)

the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows

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the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification.

Pursuant to these Rules, a notary public should not notarize a document unless the person who signed the same is the very person who executed and personally appeared before him to attest to the contents and the truth of what are stated therein.

In this case, respondent, as duly found by the IBP, was remiss in the faithful observance of his duties as a notary public when he failed to confirm the identity of the person claiming to be Jacinto through the competent evidence of identity required by the 2004 Notarial Rules. Jurisprudence provides that a community tax certificate or *cedula* is no longer considered as a valid and competent evidence of identity not only because it is not included in the list of competent evidence of identity under the Rules; but moreso, it does not bear the photograph and signature of the persons appearing before them, which the Rules deem as the more appropriate and competent means by which notaries public can ascertain the person's identity.

Moreover, as a lawyer, respondent is expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might erode the trust and confidence reposed by the public in the integrity of the legal profession.

As a final note, the Court finds it unfortunate that notwithstanding the findings of the IBP, respondent still fails to recognize the fact that his actions violated the provisions of the 2004 Notarial Rules, as he maintains that the residence certificates presented before him sufficiently complied with the Rules' identification requirements. It must be remembered, however, that a lawyer is duty-bound to keep abreast of legal developments; the changes in our notarial rules are no exception.

As herein discussed, respondent's failure to properly perform his duty as a notary public resulted not only in damage to those directly affected by the notarized document, but also in undermining the integrity of the office of a notary public and in degrading the function of notarization. He should thus be held liable for such negligence not only as a notary public but also as a lawyer. Consistent with prevailing jurisprudence, he should be meted out with the modified penalty of immediate revocation of his notarial commission, if any, disqualification from being commissioned as notary public for a period of two (2) years, and suspension from the practice of law for one (1) year.

**PAULINO LIM v. ATTY. SOCRATES R. RIVERA
A.C. No. 12156, June 20, 2018**

Time and again, the Court has imposed the penalty of suspension or disbarment for any gross misconduct that a lawyer may have committed, whether it is in his professional or in his private capacity. Good character is an essential qualification for the admission to and continued practice of law. Thus, any wrongdoing, whether professional or non-professional, indicating unfitness for the profession justifies disciplinary action,²² as in this case.

It is undisputed that respondent had obtained a loan from complainant for which he issued a post-dated check that was eventually dishonored and had failed to settle his obligation

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despite repeated demands. It has been consistently held that "[the] **deliberate failure to pay just debts** and the **issuance of worthless checks** constitute gross misconduct, for which a lawyer may be sanctioned with suspension from the practice of law.

Lawyers are instruments for the administration of justice and vanguards of our legal system. They are expected to maintain not only legal proficiency but also a high standard of morality, honesty, integrity and fair dealing so that the peoples' faith and confidence in the judicial system is ensured. They must at all times faithfully perform their duties to society, to the bar, the courts and to their clients, which **include prompt payment of financial obligations**. They must conduct themselves in a manner that reflects the values and norms of the legal profession as embodied in the Code of Professional Responsibility."

In *Enriquez v. De Vera*, the Court categorically pronounced that a lawyer's act of issuing a worthless check, punishable under Batas Pambansa Blg. 22, constitutes serious misconduct penalized by suspension from the practice of law for one (1) year, for which no conviction of the criminal charge is even necessary. Batas Pambansa Blg. 22 was "'designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient funds, or with no credit, because the practice is deemed a public nuisance, a crime against public order to be abated."

Being a lawyer, respondent was well aware of, or was nonetheless presumed to know, the objectives and coverage of Batas Pambansa Blg. 22. Yet, he knowingly violated the law and thereby "exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order."

In addition, respondent's failure to answer the complaint against him and his failure to appear at the scheduled mandatory conference/hearing despite notice are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138, Rules of Court. Respondent should stand foremost in complying with the directives of the IBP Commission on Bar Discipline not only because as a lawyer, he is called upon to obey the legal orders of duly constituted authorities, as well as court orders and processes, but also because the case involved the very foundation of his right to engage in the practice of law. Therefore, his lack of concern or interest in the status or outcome of his administrative case would show how much less he would regard the interest of his clients.

Indisputably, respondent has fallen short of the exacting standards expected of him as a vanguard of the legal profession. His transgressions showed him to be unfit for the office and unworthy of the privileges which his license and the law confer to him, for which he must suffer the consequence.

**Concerned Citizens v. RUTH TANGLAO SUAREZ- HOLGUIN, Utility Worker
1, Office of the Clerk of Court, Regional Trial Court, Angeles City,
Pampanga
A.M. No. P-18-3843**

Settled is the rule that in administrative proceedings, complainants bear the burden of proving the allegations in their complaint by substantial evidence. As found by the OCA in the present case, the record is bereft of any evidence supporting the charges against Suarez-Holguin for

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neglect of duty, violating the prescribed dress code, using official time for personal business, immorality, and using Supreme Court stickers to evade traffic citations.

While complainants attached pictures of respondent posing in a two-piece bikini as posted in social media, such photographs, by themselves, as aptly stated by the OCA, do not constitute evidence of immorality absent any sexual innuendo or depiction of a sexual act. Therefore, the Court dismisses these charges for lack of evidence.

As regards Suarez-Holguin's travels abroad, the Court finds sufficient ground to discipline her for failing to secure travel authorities for thirteen (13) foreign trips within a span of three (3) years.

OCA Circular No. 49-2003 provides that "[j]udges and court personnel who wish to travel abroad must secure a travel authority from the [OCA]" and that those who leave the country without the required travel authority shall be "subject to disciplinary action."

In the present case, however, while this is the first administrative case of Suarez-Holguin, the case covers thirteen (13) separate incidents all relating to her failure to comply with the OCA's directive within a span of three (3) years. In all these travels, records are bereft of showing any attempt on her part to secure a travel authority for any of her foreign trips. Case law states that unawareness of the circular is not an excuse for non-compliance therewith. In view of the substantial number of times that she failed to comply with the circular, the Court finds it proper to impose a higher penalty of suspension without pay for thirty (30) days.

**SAMUEL N. RODRIGUEZ, v. HON. OSCAR P. NOEL, JR., EXECUTIVE
JUDGE/PRESIDING JUDGE, REGIONAL TRIAL COURT OF GENERAL
SANTOS CITY, BRANCH 35
A.M. No. RTJ-18-2525 (Formerly OCA IPI No. 15-4435-RTJ)
June 25, 2018**

As regards the 72-hour TRO, the Court agrees with the findings and recommendations of the OCA.

Section 5, Rule 58 of the Rules of Court pertinently states:

Section 5. *Preliminary injunction not granted without notice; exception.* - x x x.

However, subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-*sala* court or the presiding judge of a single-*sala* court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance, but shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, **within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.**

x x x x (Emphases supplied)

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Based on the above provision, the following are the parameters for the issuance of an *ex parte* TRO: (1) it is issued only in matters of extreme urgency and the applicant will suffer grave injustice and irreparable injury; (2) it shall be effective for only 72 hours counted from its issuance; (3) within this original 72-hour period, the issuing judge must conduct a summary hearing to determine the propriety of extending the TRO; and (4) in no case shall the total period of the TRO which shall include the original 72 hours exceed twenty (20) days.

As a matter of public policy, the acts of a judge in his official capacity are not subject to disciplinary action, even though such acts are erroneous. It does not mean, however, that a judge, given the leeway he is accorded in such cases, should not evince due care in the performance of his adjudicatory prerogatives.

When the law is sufficiently basic, a judge owes it to his office to simply apply it; x x x **failure to consider a basic and elementary rule, a law or principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and the title he holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.**

Canon 1 (Rule 1.01) of the Code of Judicial Conduct provides that a judge should be the embodiment of competence, integrity and independence. Canon 3 states that "A judge should perform his official duties honestly and with impartiality and diligence." By his actuations, respondent judge has shown his lack of integrity and diligence, thereby blemishing the image of the judiciary.

**EN BANC
NICANOR D. TRIOL v. ATTY. DELFIN R. AGCAOILI, JR.
A.C. No. 12011, June 26, 2018**

It is settled that "notarization is not an empty, meaningless routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined."

In this light, Section 2 (b), Rule IV of the 2004 Notarial Rules requires a duly-commissioned notary public to perform a notarial act only **if the person involved as signatory to the instrument or document is: (a) in the notary's presence personally at the time of the notarization;** and (b) personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.¹⁸ In other words, a notary public is not allowed to notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein. The purpose of this requirement is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act and deed.

Parenthetically, in the realm of legal ethics, a breach of the aforesaid provision of the 2004 Notarial Rules would also constitute a violation of the Code of Professional Responsibility (CPR), considering that an erring lawyer who is found to be remiss in his functions as a notary public is considered to have violated his oath as a lawyer as well.

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He does not only fail to fulfill his solemn oath of upholding and obeying the law and its legal processes, but he also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.

By misrepresenting himself as a commissioned notary public at the time of the alleged notarization, he did not only cause damage to those directly affected by it, but he likewise undermined the integrity of the office of a notary public and degraded the function of notarization. In so doing, his conduct falls miserably short of the high standards of morality, honesty, integrity and fair dealing required from lawyers, and it is only but proper that he be sanctioned.

**HEIR OF HERMINIGILDO* A. UNITE, REPRESENTED BY HIS SOLE HEIR,
FLORENTINO S. UNITE v. ATTY. RAYMUND P. GUZMAN
A.C. No. 12062, July 02, 2018**

Time and again, the Court has emphasized that the act of notarization is impressed with public interest. Notarization converts a private document to a public document, making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full faith and credence. As such, a notary public must observe with utmost care the basic requirements in the performance of his duties in order to preserve the confidence of the public in the integrity of the notarial system. In this light, the Court has ruled that notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.

Under Section 2 (b) (1) and (2), Rule IV of the Notarial Rules, a notary public should not notarize a document unless the signatory to the document is "in the notary's presence personally at the time of the notarization," and is "*personally known to the notary public or otherwise identified by the notary public through competent evidence of identity.*"³⁰ Section 12, Rule II of the same rules, as amended by the February 19, 2008 *En Banc* Resolution in A.M. No. 02-8-13-SC, defines "competent evidence of identity" thus:

Section 12. *Competent Evidence of Identity.* – The phrase "competent evidence of identity" refers to the identification of an individual based on:

At least **one current identification document issued by an official agency bearing the photograph and signature of the individual**; such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or

Or

The oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification.

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In this case, respondent, as duly found by the IBP-IC, clearly failed to faithfully observe his duties as a notary public when he failed to confirm the identity of Torrices through the competent evidence of identity required by the Notarial Rules. This fact is clear from the Deed itself which shows that Torrices presented only his CTC when he appeared before respondent. Jurisprudence provides that a community tax certificate or *cedula* is no longer considered as a valid and competent evidence of identity not only because it is not included in the list of competent evidence of identity under the Rules; more importantly, it does not bear the photograph and signature of the person appearing before notaries public which the Rules deem as the more appropriate and competent means by which they can ascertain the person's identity.

Lastly, as a lawyer, respondent is expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might erode the trust and confidence reposed by the public in the integrity of the legal profession.

By notarizing the subject Deed, he engaged in an unlawful, dishonest, immoral, or deceitful conduct which makes him liable as well for violation of the CPR, particularly Rule 1.01, Canon 1 thereof which provides:

CANON 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

As herein discussed, respondent's failure to properly perform his duty as a notary public resulted not only in damage to those directly affected by the notarized document, but also in undermining the integrity of the office of a notary public and in degrading the function of notarization.

**JILDO A. GUBATON v. ATTY. AUGUSTUS SERAFIN D. AMADOR
A.C. No. 8962, July 09, 2018**

It is fundamental that the quantum of proof in administrative cases is substantial evidence. Substantial evidence is that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise.

In this case, substantial evidence exist to prove complainant's claim that respondent had illicit affairs with Bernadette and hence, should be adjudged guilty of gross immorality.

As per complainant's own account, he actually saw respondent and Bernadette together on various intimate occasions. In fact, he attempted to confront them at one time when he saw them kissing inside a vehicle, although respondent was able to evade him. The Court is inclined to believe that complainant's imputations against respondent are credible, considering that he had no ill motive to accuse respondent of such a serious charge – much more a personal scandal involving his own wife – unless the same were indeed true.

The relaxation of the hearsay rule in disciplinary administrative proceedings against judges and justices where bribery proceedings are involved is not a novel thought in this Court; it has

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been advocated in the Separate Concurring Opinion of Justice Arturo D. Brion in the administrative case of Justice Ong before this Court. The Opinion essentially maintained that the Court could make a conclusion that bribery had taken place *when the circumstances – including those derived from hearsay evidence – sufficiently prove its occurrence*. **It was emphasized that [t]o satisfy the substantial evidence requirement for administrative cases, hearsay evidence should necessarily be supplemented and corroborated by other evidence that are not hearsay.**²⁷

Based on jurisprudence, extramarital affairs of lawyers are regarded as offensive to the sanctity of marriage, the family, and the community. When lawyers are engaged in wrongful relationships that blemish their ethics and morality, the usual recourse is for the erring attorney's suspension from the practice of law, if not disbarment. This is because possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the Bar and to retain membership in the legal profession.

Under the Code of Professional Responsibility:

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Canon 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

EN BANC

**Buenavista Properties, Inc., v. Atty. Amado B. Deloria
A.C. No. 12160, August 14, 2018**

Rules 15.01 and 15.03, Canon 15 of the CPR state:

CANON15

xxx

Rule 15.01 - A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.

xx xx

Rule 15.03 -A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

In *Hornilla v. Salunat*, the Court explained the test to determine conflict of interest, to wit:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the

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lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interest if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double-dealing in the performance thereof.

"The rule against conflict of interest also 'prohibits a lawyer from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases,' since the representation of opposing clients, even in unrelated cases, 'is tantamount to representing conflicting interests or, at the very least, invites suspicion of double-dealing which the Court cannot allow.'" Moreover, the requirement under Rule 15.03 is quite clear. A lawyer must secure the written consent of all concerned parties after a full disclosure of the facts; failure to do so would subject him to disciplinary action as he would be found guilty of representing conflicting interests.

Forum shopping exists when, as a result of an adverse decision in one forum, or in anticipation thereof, a party seeks a favorable opinion in another forum through means other than appeal or certiorari. There is forum shopping when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. They are as follows: (a) identity of parties, or at least such parties that represent the same interests in both actions; (b) identity of rights or causes of action; and (c) identity of relief sought.

**Pablito L. Miranda, Jr v. Atty. Jose B. Alvarez, Sr.
A.C. No. 12196, September 03, 2018**

A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies[,] and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument. For this reason, notaries public must observe with the utmost care the basic requirements in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined."

The basic requirements a notary public; must observe in the performance of his duties are presently laid down in the 2004 Rules on Notarial Practice. The failure to observe the requirements and/or comply with the duties prescribed therein shall constitute grounds for the revocation of the notarial commission of, as well as the imposition of the appropriate administrative sanction/s against, the erring notary public.

Respondent performed notarial acts without the proper notarial commission therefor.

Under the Notarial Rules, "a person commissioned as a notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning is made. Commission either means the grant of authority to perform notarial [acts] or the written

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evidence of authority." "Without a commission, a lawyer is unauthorized to perform any of the notarial acts. A lawyer who acts as a notary public without the necessary notarial commission is remiss in his professional duties and responsibilities." Moreover, it should be emphasized that "[u]nder the rule, only persons who are commissioned as notary public may perform notarial acts **within the territorial jurisdiction of the court which granted the commission.**"

***When people tell you that you can't
Do not pay attention to them.
Their statement reflects their limitation,
Never YOURS!***

GOOD LUCK AND GOD BLESS



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JUNE 20, 2019**



AMDG

All for the Greater Glory of GOD!