Republic of the Philippines
Supreme Court
Manila

A.M. No. 19-10-20-SC

2019 PROPOSED AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE

RESOLUTION

WHEREAS, pursuant to Section 5(5), Article VIII of the 1987 Constitution, the Supreme Court is vested with the power to promulgate rules concerning the pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged;

WHEREAS, considering the policy of Chief Justice Lucas P. Bersamin to prioritize the reform of procedural laws in order to make the disposition of every action and proceeding more just, speedy and inexpensive, as well as to prevent delays and to decongest the courts, the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure was created to review possible amendments to the Rules per Memorandum Order No. 04-2019 dated January 14, 2019;

WHEREAS, the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure is composed of the following members:

Chairperson: **Hon. Diosdado M. Peralta**
Associate Justice, Supreme Court

Vice-Chairperson: **Hon. Alexander G. Gesmundo**
Associate Justice, Supreme Court

Members: **Hon. Francis H. Jardeleza**
Associate Justice, Supreme Court

Hon. Alfredo Benjamin S. Caguioa
Associate Justice, Supreme Court

Hon. Jose Midas P. Marquez
Court Administrator

Hon. Fernanda Lampas Peralta
Associate Justice, Court of Appeals

Hon. Maria Filomena D. Singh
Associate Justice, Court of Appeals

Hon. Magdangal M. De Leon
Associate Justice, Court of Appeals (Retired)

Hon. Jose Lorenzo R. Dela Rosa
Regional Trial Court of Manila, Branch 4

Hon. Niño Delvin E. Embuscado
Metropolitan Trial Court of Makati, Branch 66

Atty. Ramon S. Esguerra
Professor, University of the Philippines College of Law

Atty. Tranquil Gervacio S. Salvador III
Professor, Ateneo De Manila University School of Law

Atty. Regan G. Yuliong
Office of Chief Justice Lucas P. Bersamin

Secretariat: **Atty. Ralph Jerome D. Salvador**
Office of Associate Justice Diosdado M. Peralta

Atty. Antonio Ceasar R. Manila
Office of Associate Justice Alexander G. Gesmundo

Atty. Camille Sue Mae L. Ting
Office of the Court Administrator

WHEREAS, the Sub-Committee members submitted and discussed the possible amendments to the 1997 Rules of Civil Procedure, taking into account the recent developments in procedural and substantive laws, jurisprudence and digital technology, as well as international conventions;

WHEREAS, after several exhaustive meetings, the Sub-Committee submitted its proposals to the reorganized Committee on the Revision of the Rules of Court (*Mother Rule Committee*),[1] which is composed of the following members, who thoroughly reviewed and made further amendments to the said proposals:

Chairperson: **Chief Justice Lucas P. Bersamin**

Vice/Working Chairperson: **Justice Diosdado M. Peralta**

Members: **Justice Francis H. Jardeleza**

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[1] Reorganized per Memorandum Order No. 03-2019 dated January 14, 2019.

Justice Alfredo Benjamin S. Caguioa

Justice Alexander G. Gesmundo

Justice Secretary Menardo I. Guevarra

Justice Adolfo S. Azcuna (ret.)

Justice Romeo J. Callejo, Sr. (ret.)

Court Administrator Jose Midas P. Marquez

Atty. Francis Ed Lim

Atty. Ramon S. Esguerra

Atty. Tranquil Gervacio S. Salvador III

Atty. Amador Z. Tolentino Jr.

Secretariat: **Atty. Ralph Jerome D. Salvador**

Atty. Camille Sue Mae L. Ting

Atty. Al-Azree J. Mohammadsali

WHEREAS, after several meetings, the reorganized Committee on the Revision of the Rules of Court has finally finished amending and updating the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, in order to incorporate the technological advances and developments in law, jurisprudence and international conventions;

NOW, THEREFORE, acting on the recommendation of the Chairperson of the Committee on the Revision of the Rules of Court, the Court resolves to **APPROVE** the "***2019 Proposed Amendments to the 1997 Rules of Civil Procedure.***"

The 2019 Proposed Amendments to the 1997 Rules of Civil Procedure shall take effect on May 1, 2020, following its publication in the Official Gazette or in two newspapers of national circulation

October 15, 2019, Manila, Philippines.

LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V. F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

On leave but left his vote
JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

Republic of the Philippines
Supreme Court
Manila

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2019 PROPOSED AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE

RULE 6
KINDS OF PLEADINGS

Section 1. *Pleadings defined*. - Pleadings are the written statements of the respective claims and defenses of the parties submitted to the court for appropriate judgment. (1)

Section 2. *Pleadings allowed*. - The claims of a party are asserted in a complaint, counterclaim, cross-claim, third (fourth, etc.)-party complaint, or complaint-in-intervention.

The defenses of a party are alleged in the answer to the pleading asserting a claim against him or her.

An answer may be responded to by a reply only if the defending party attaches an actionable document to the answer. (2a)

Section 3. *Complaint*. - The complaint is the pleading alleging the plaintiff's or claiming party's cause or causes of action. The names and residences of the plaintiff and defendant must be stated in the complaint. (3a)

Section 4. *Answer*. - An answer is a pleading in which a defending party sets forth his or her defenses. (4a)

Section 5. *Defenses*. — Defenses may either be negative or affirmative.

(a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his or her cause or causes of action.

(b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him or her. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds,

estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance.

Affirmative defenses may also include grounds for the dismissal of a complaint, specifically, that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment. (5a)

Section 6. *Counterclaim*. — A counterclaim is any claim which a defending party may have against an opposing party. (6)

Section 7. *Compulsory counterclaim*. — A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counterclaim may be considered compulsory regardless of the amount. A compulsory counterclaim not raised in the same action is barred, unless otherwise allowed by these Rules. (7a)

Section 8. *Cross-claim*. - A cross-claim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein. Such cross-claim may cover all or part of the original claim. (8a)

Section 9. *Counter-counterclaims and counter-cross-claims*. — A counterclaim may be asserted against an original counter-claimant.

A cross-claim may also be filed against an original cross-claimant. (9)

Section 10. *Reply*. — All new matters alleged in the answer are deemed controverted. If the plaintiff wishes to interpose any claims arising out of the new matters so alleged, such claims shall be set forth in an amended or supplemental complaint. However, the plaintiff may file a reply only if the defending party attaches an actionable document to his or her answer.

A reply is a pleading, the office or function of which is to deny, or allege facts in denial or avoidance of new matters alleged in, or relating to, said actionable document.

In the event of an actionable document attached to the reply, the defendant may file a rejoinder if the same is based solely on an actionable document. (10a)

Section 11. *Third, (fourth, etc.)-party complaint*. — A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant for contribution, indemnity, subrogation or any other relief, in respect of his or her opponent's claim.

The third (fourth, etc.)-party complaint shall be denied admission, and the court shall require the defendant to institute a separate action, where: (a) the third (fourth, etc.)-party defendant cannot be located within thirty (30) calendar days from the grant of such leave; (b) matters extraneous to the issue in the principal case are raised; or (c) the effect would be to introduce a new and separate controversy into the action. (11a)

Section 12. *Bringing new parties*. — When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants, if jurisdiction over them can be obtained. (12)

Section 13. *Answer to third (fourth, etc.)-party complaint*. — A third (fourth, etc.)-party defendant may allege in his or her answer his or her defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he or she may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff. (13a)

RULE 7
PARTS AND CONTENTS OF A PLEADING

Section 1. *Caption*. — The caption sets forth the name of the court, the title of the action, and the docket number if assigned.

The title of the action indicates the names of the parties. They shall all be named in the original complaint or petition; but in subsequent pleadings, it shall be sufficient if the name of the first party on each side be stated with an appropriate indication when there are other parties.

Their respective participation in the case shall be indicated. (1)

Section 2. *The body*. — The body of the pleading sets forth its designation, the allegations of the party's claims or defenses, the relief prayed for, and the date of the pleading.

(a) *Paragraphs*. — The allegations in the body of a pleading shall be divided into paragraphs so numbered to be readily identified, each of which shall contain a statement of a single set of circumstances so far as that can be done with convenience. A paragraph may be referred to by its number in all succeeding pleadings.

(b) *Headings*. — When two or more causes of action are joined, the statement of the first shall be prefaced by the words "first cause of action," of the second by "second cause of action", and so on for the others.

When one or more paragraphs in the answer are addressed to one of several causes of action in the complaint, they shall be prefaced by the words

"answer to the first cause of action" or "answer to the second cause of action" and so on; and when one or more paragraphs of the answer are addressed to several causes of action, they shall be prefaced by words to that effect.

(c) *Relief.* — The pleading shall specify the relief sought, but it may add a general prayer for such further or other relief as may be deemed just or equitable.

(d) *Date*. — Every pleading shall be dated. (4)

Section 3. *Signature and address*. — (a) Every pleading and other written submissions to the court must be signed by the party or counsel representing him or her.

(b) The signature of counsel constitutes a certificate by him or her that he or she has read the pleading and document; that to the best of his or her knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) It is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) The claims, defenses, and other legal contentions are warranted by existing law or jurisprudence, or by a non-frivolous argument for extending, modifying, or reversing existing jurisprudence;

(3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after availment of the modes of discovery under these rules; and

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) If the court determines, on motion or *motu proprio* and after notice and hearing, that this rule has been violated, it may impose an appropriate sanction or refer such violation to the proper office for disciplinary action, on any attorney, law firm, or party that violated the rule, or is responsible for the violation. Absent exceptional circumstances, a law firm shall be held jointly and severally liable for a violation committed by its partner, associate, or employee. The sanction may include, but shall not be limited to, non-monetary directive or sanction; an order to pay a penalty in court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation, including attorney's fees for the filing of the motion for sanction. The lawyer or law firm cannot pass on the monetary penalty to the client. (3a)

Section 4. *Verification*. — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (4a)

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 or she 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 or her 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 or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five (5) calendar days therefrom to the court wherein his or her aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.

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 or her 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. (5a)

Section 6. *Contents*. — Every pleading stating a party's claims or defenses shall, in addition to those mandated by Section 2, Rule 7, state the following:

(a) Names of witnesses who will be presented to prove a party's claim or defense;

(b) Summary of the witnesses' intended testimonies, provided that the judicial affidavits of said witnesses shall be attached to the pleading and form an integral part thereof. Only witnesses whose judicial affidavits are attached to the pleading shall be presented by the parties during trial. Except if a party presents meritorious reasons as basis for the admission of additional witnesses, no other witness or affidavit shall be heard or admitted by the court; and

(c) Documentary and object evidence in support of the allegations contained in the pleading. (n)

RULE 8
MANNER OF MAKING ALLEGATIONS IN PLEADINGS

Section 1. *In general*. — Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts, including the evidence on which the party pleading relies for his or her claim or defense, as the case may be.

If a cause of action or defense relied on is based on law, the pertinent provisions thereof and their applicability to him or her shall be clearly and concisely stated. (1a)

Section 2. *Alternative causes of action or defenses*. — A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one cause of action or defense or in separate causes of action or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. (2)

Section 3. *Conditions precedent*. — In any pleading, a general averment of the performance or occurrence of all conditions precedent shall be sufficient. (3)

Section 4. *Capacity*. — Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (4)

Section 5. *Fraud, mistake, condition of the mind*. — In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with

particularity. Malice, intent, knowledge, or other condition of the mind of a person may be averred generally. (5)

Section 6. *Judgment*. — In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it. An authenticated copy of the judgment or decision shall be attached to the pleading. (6a)

Section 7. *Action or defense based on document*. - Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading. (7a)

Section 8. *How to contest such documents*. - When an action or defense is founded upon a written instrument, or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath specifically denies them, and sets forth what he or she claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused. (8a)

Section 9. *Official document or act*.- In pleading an official document or official act, it is sufficient to aver that the document was issued or the act was done in compliance with law. (9)

Section 10. *Specific denial*. — A defendant must specify each material allegation of fact the truth of which he or she does not admit and, whenever practicable, shall set forth the substance of the matters upon which he or she relies to support his or her denial. Where a defendant desires to deny only a part of an averment, he or she shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made to the complaint, he or she shall so state, and this shall have the effect of a denial. (10a)

Section 11. *Allegations not specifically denied deemed admitted*. — Material averments in a pleading asserting a claim or claims, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. (11a)

Section 12. *Affirmative defenses*. — (a) A defendant shall raise his or her affirmative defenses in his or her answer, which shall be limited to the reasons set forth under Section 5(b), Rule 6, and the following grounds:

1. That the court has no jurisdiction over the person of the defending party;

2. That venue is improperly laid;

3. That the plaintiff has no legal capacity to sue;

4. That the pleading asserting the claim states no cause of action; and

5. That a condition precedent for filing the claim has not been complied with.

(b) Failure to raise the affirmative defenses at the earliest opportunity shall constitute a waiver thereof.

(c) The court shall *motu proprio* resolve the above affirmative defenses within thirty (30) calendar days from the filing of the answer.

(d) As to the other affirmative defenses under the first paragraph of Section 5(b), Rule 6, the court may conduct a summary hearing within fifteen (15) calendar days from the filing of the answer. Such affirmative defenses shall be resolved by the court within thirty (30) calendar days from the termination of the summary hearing.

(e) Affirmative defenses, if denied, shall not be the subject of a motion for reconsideration or petition for *certiorari*, prohibition or *mandamus*, but may be among the matters to be raised on appeal after a judgment on the merits. (n)

Section 13. *Striking out of pleading or matter contained therein*. — Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within twenty (20) calendar days after the service of the pleading upon him or her, or upon the court's own initiative at any time, the court may order any pleading to be stricken out or that any sham or false, redundant, immaterial, impertinent, or scandalous matter be stricken out therefrom. (12a)

RULE 9
EFFECT OF FAILURE TO PLEAD

Section 1. *Defenses and objections not pleaded*. — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (1)

Section 2. *Compulsory counterclaim*, *or cross-claim*, *not set up barred*. — A compulsory counterclaim, or a cross-claim, not set up shall be barred. (2)

Section 3. *Default*; *Declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his or her pleading may warrant, unless the court in its

discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

(a) *Effect of order of default*. — A party in default shall be entitled to notices of subsequent proceedings but shall not take part in the trial.

(b) *Relief from order of default*. — A party declared in default may at any time after notice thereof and before judgment, file a motion under oath to set aside the order of default upon proper showing that his or her failure to answer was due to fraud, accident, mistake or excusable negligence and that he or she has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice.

(c) *Effect of partial default*. — When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented.

(d) *Extent of relief to be awarded*. — A judgment rendered against a party in default shall neither exceed the amount or be different in kind from that prayed for nor award unliquidated damages.

(e) *Where no defaults allowed*. — If the defending party in an action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the Solicitor General or his or her deputized public prosecutor, to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated. (3a)

RULE 10
AMENDED AND SUPPLEMENTAL PLEADINGS

Section 1. *Amendments in general*. — Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, in the most expeditious and inexpensive manner. (1a)

Section 2. *Amendments as a matter of right*. — A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) calendar days after it is served. (2a)

Section 3. *Amendments by leave of court.* — Except as provided in the next preceding Section, substantial amendments may be made only upon leave of court. But such leave shall be refused if it appears to the court that the motion was made with intent to delay or confer jurisdiction on the court, or the pleading stated no cause of action from the beginning which could be amended. Orders of the court upon the

matters provided in this Section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard. (3a)

Section 4. *Formal amendments*. — A defect in the designation of the parties and other clearly clerical or typographical errors may be summarily corrected by the court at any stage of the action, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party. (4)

Section 5. *No amendment necessary to conform to or authorize presentation of evidence.* — When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. No amendment of such pleadings deemed amended is necessary to cause them to conform to the evidence. (5a)

Section 6. *Supplemental pleadings*. — Upon motion of a party, the court may, upon reasonable notice and upon such terms as are just, permit him or her to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) calendar days from notice of the order admitting the supplemental pleading. (6a)

Section 7. *Filing of amended pleadings*. — When any pleading is amended, a new copy of the entire pleading, incorporating the amendments, which shall be indicated by appropriate marks, shall be filed. (7)

Section 8. *Effect of amended pleadings*. — An amended pleading supersedes the pleading that it amends. However, admissions in superseded pleadings may be offered in evidence against the pleader, and claims or defenses alleged therein not incorporated in the amended pleading shall be deemed waived. (8a)

RULE 11
WHEN TO FILE RESPONSIVE PLEADINGS

Section 1. *Answer to the complaint*. — The defendant shall file his or her answer to the complaint within thirty (30) calendar days after service of summons, unless a different period is fixed by the court. (1a)

Section 2. *Answer of a defendant foreign private juridical entity*. — Where the defendant is a foreign private juridical entity and service of summons is made on the government official designated by law to receive the same, the answer shall be filed within sixty (60) calendar days after receipt of summons by such entity. (2a)

Section 3. *Answer to amended complaint*. — When the plaintiff files an amended complaint as a matter of right, the defendant shall answer the same within thirty (30) calendar days after being served with a copy thereof.

Where its filing is not a matter of right, the defendant shall answer the amended complaint within fifteen (15) calendar days from notice of the order admitting the

same. An answer earlier filed may serve as the answer to the amended complaint if no new answer is filed.

This Rule shall apply to the answer to an amended counterclaim, amended cross-claim, amended third (fourth, etc.)-party complaint, and amended complaint-in-intervention. (3a)

Section 4. *Answer to counterclaim or cross-claim*. — A counterclaim or cross-claim must be answered within twenty (20) calendar days from service. (4a)

Section 5. *Answer to third (fourth, etc.)-party complaint*. — The time to answer a third (fourth, etc.)-party complaint shall be governed by the same rule as the answer to the complaint. (5)

Section 6. *Reply.* — A reply, if allowed under Section 10, Rule 6 hereof, may be filed within fifteen (15) calendar days from service of the pleading responded to. (6a)

Section 7. *Answer to supplemental complaint*. — A supplemental complaint may be answered within twenty (20) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. The answer to the complaint shall serve as the answer to the supplemental complaint if no new or supplemental answer is filed. (7a)

Section 8. *Existing counterclaim or cross-claim*. — A compulsory counterclaim or a cross-claim that a defending party has at the time he or she files his or her answer shall be contained therein. (8a)

Section 9. *Counterclaim or cross-claim arising after answer*. — A counterclaim or a cross-claim which either matured or was acquired by a party after serving his or her pleading may, with the permission of the court, be presented as a counterclaim or a cross-claim by supplemental pleading before judgment. (9a)

Section 10. *Omitted counterclaim or cross-claim*. — When a pleader fails to set up a counterclaim or a cross-claim through oversight, inadvertence, or excusable neglect, or when justice requires, he or she may, by leave of court, set up the counterclaim or cross-claim by amendment before judgment. (10a)

Section 11. *Extension of time to file an answer*. — A defendant may, for meritorious reasons, be granted an additional period of not more than thirty (30) calendar days to file an answer. A defendant is only allowed to file one (1) motion for extension of time to file an answer.

A motion for extension to file any pleading, other than an answer, is prohibited and considered a mere scrap of paper. The court, however, may allow any other pleading to be filed after the time fixed by these Rules. (11a)

RULE 12
BILL OF PARTICULARS

Section 1. *When applied for*; *purpose*. — Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter, which is not averred with sufficient definiteness or particularity, to enable him or her properly to prepare his or her responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) calendar days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired. (1a)

Section 2. *Action by the court*. — Upon the filing of the motion, the clerk of court must immediately bring it to the attention of the court, which may either deny or grant it outright, or allow the parties the opportunity to be heard. (2)

Section 3. *Compliance with order*. — If the motion is granted, either in whole or in part, the compliance therewith must be effected within ten (10) calendar days from notice of the order, unless a different period is fixed by the court. The bill of particulars or a more definite statement ordered by the court may be filed either in a separate or in an amended pleading, serving a copy thereof on the adverse party. (3a)

Section 4. *Effect of non-compliance*. — If the order is not obeyed, or in case of insufficient compliance therewith, the court may order the striking out of the pleading or the portions thereof to which the order was directed, or make such other order as it deems just. (4)

Section 5. *Stay of period to file responsive pleading*. — After service of the bill of particulars or of a more definite pleading, or after notice of denial of his or her motion, the moving party may file his or her responsive pleading within the period to which he or she was entitled at the time of filing his or her motion, which shall not be less than five (5) calendar days in any event. (5a)

Section 6. *Bill a part of pleading*. — A bill of particulars becomes part of the pleading for which it is intended. (6)

RULE 13
FILING AND SERVICE OF PLEADINGS, JUDGMENTS AND OTHER PAPERS

Section 1. *Coverage*. — This Rule shall govern the filing of all pleadings, motions, and other court submissions, as well as their service, except those for which a different mode of service is prescribed. (1a)

Section 2. *Filing and Service, defined*. — Filing is the act of submitting the pleading or other paper to the court.

Service is the act of providing a party with a copy of the pleading or any other court submission. If a party has appeared by counsel, service upon such party shall be

made upon his or her counsel, unless service upon the party and the party's counsel is ordered by the court. Where one counsel appears for several parties, such counsel shall only be entitled to one copy of any paper served by the opposite side.

Where several counsels appear for one party, such party shall be entitled to only one copy of any pleading or paper to be served upon the lead counsel if one is designated, or upon any one of them if there is no designation of a lead counsel. (2a)

Section**.** 3. *Manner of filing*. — The filing of pleadings and other court submissions shall be made by:

(a) Submitting personally the original thereof, plainly indicated as such, to the court;

(b) Sending them by registered mail;

(c) Sending them by accredited courier; or

(d) Transmitting them by electronic mail or other electronic means as may be authorized by the Court in places where the court is electronically equipped.

In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second and third cases, the date of the mailing of motions, pleadings, and other court submissions, and payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. In the fourth case, the date of electronic transmission shall be considered as the date of filing. (3a)

Section 4. *Papers required to be filed and served.* – Every judgment, resolution, order, pleading subsequent to the complaint, written motion, notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected. (4)

Section 5. *Modes of Service.* — Pleadings, motions, notices, orders, judgments, and other court submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means as may be authorized by the Court, or as provided for in international conventions to which the Philippines is a party. (5a)

Section 6. *Personal Service.* — Court submissions may be served by personal delivery of a copy to the party or to the party's counsel, or to their authorized representative named in the appropriate pleading or motion, or by leaving it in his or her office with his or her clerk, or with a person having charge thereof. If no person is found in his or her office, or his or her office is not known, or he or she has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion residing therein. (6a)

Section 7. *Service by mail*. — Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or to the party's counsel at his or her office, if known, otherwise at his or her residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (l0) calendar days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail. (7a)

Section 8**.** *Substituted service*. – If service of pleadings, motions, notices, resolutions, orders and other papers cannot be made under the two preceding sections, the office and place of residence of the party or his or her counsel being unknown, service may be made by delivering the copy to the clerk of court, with proof of failure of both personal service and service by mail. The service is complete at the time of such delivery. (8a)

Section 9. *Service by electronic means and facsimile*. — Service by electronic means and facsimile shall be made if the party concerned consents to such modes of service.

Service by electronic means shall be made by sending an e-mail to the party's or counsel's electronic mail address, or through other electronic means of transmission as the parties may agree on, or upon direction of the court.

Service by facsimile shall be made by sending a facsimile copy to the party's or counsel's given facsimile number. (n)

Section 10. *Presumptive service.* — There shall be presumptive notice to a party of a court setting if such notice appears on the records to have been mailed at least twenty (20) calendar days prior to the scheduled date of hearing and if the addressee is from within the same judicial region of the court where the case is pending, or at least thirty (30) calendar days if the addressee is from outside the judicial region. (n)

Section 11. *Change of electronic mail address or facsimile number.* — A party who changes his or her electronic mail address or facsimile number while the action is pending must promptly file, within five (5) calendar days from such change, a notice of change of e-mail address or facsimile number with the court and serve the notice on all other parties.

Service through the electronic mail address or facsimile number of a party shall be presumed valid unless such party notifies the court of any change, as aforementioned. (n)

Section 12. *Electronic mail and facsimile subject and title of pleadings and other documents.* — The subject of the electronic mail and facsimile must follow the prescribed format: case number, case title and the pleading, order or document title. The title of each electronically-filed or served pleading or other document, and each submission served by facsimile shall contain sufficient information to enable the court to ascertain from the title: (a) the party or parties filing or serving the paper, (b) nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought. (n)

Section 13. *Service of Judgments, Final Orders or Resolutions.* — Judgments, final orders, or resolutions shall be served either personally or by registered mail. Upon *ex parte* motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by means of publication at the expense of the prevailing party. (9a)

Section 14. *Conventional service or filing of orders, pleadings and other documents.* – Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the Court:

(a) Initiatory pleadings and initial responsive pleadings, such as an answer;

(b) *Subpoenae*, protection orders, and writs;

(c) Appendices and exhibits to motions, or other documents that are not readily amenable to electronic scanning may, at the option of the party filing such, be filed and served conventionally; and

(d) Sealed and confidential documents or records. (n)

Section 15. *Completeness of service.* — Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) calendar days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) calendar days from the date he or she received the first notice of the postmaster, whichever date is earlier. Service by accredited courier is complete upon actual receipt by the addressee, or after at least two (2) attempts to deliver by the courier service, or upon the expiration of five (5) calendar days after the first attempt to deliver, whichever is earlier.

Electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent. Electronic service is not effective or complete if the party serving the document learns that it did not reach the addressee or person to be served.

Service by facsimile transmission is complete upon receipt by the other party, as indicated in the facsimile transmission printout. (10a)

Section 16. *Proof of filing*. — The filing of a pleading or any other court submission shall be proved by its existence in the record of the case.

(a) If the pleading or any other court submission is not in the record, but is claimed to have been filed personally, the filing shall be proven by the written

or stamped acknowledgment of its filing by the clerk of court on a copy of the pleading or court submission;

(b) If the pleading or any other court submission was filed by registered mail, the filing shall be proven by the registry receipt and by the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if not delivered.

(c) If the pleading or any other court submission was filed through an accredited courier service, the filing shall be proven by an affidavit of service of the person who brought the pleading or other document to the service provider, together with the courier's official receipt and document tracking number.

(d) If the pleading or any other court submission was filed by electronic mail, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a paper copy of the pleading or other document transmitted or a written or stamped acknowledgment of its filing by the clerk of court. If the paper copy sent by electronic mail was filed by registered mail, paragraph (b) of this Section applies.

(e) If the pleading or any other court submission was filed through other authorized electronic means, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a copy of the electronic acknowledgment of its filing by the court. (12a)

Section 17. *Proof of service.* —— Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a statement of the date, place, and manner of service. If the service is made by:

(a) Ordinary mail. – Proof shall consist of an affidavit of the person mailing stating the facts showing compliance with Section 7 of this Rule.

(b) Registered mail. – Proof shall be made by the affidavit mentioned above and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

(c) Accredited courier service. – Proof shall be made by an affidavit of service executed by the person who brought the pleading or paper to the service provider, together with the courier's official receipt or document tracking number.

(d) Electronic mail, facsimile, or other authorized electronic means of transmission. – Proof shall be made by an affidavit of service executed by the person who sent

the e-mail, facsimile, or other electronic transmission, together with a printed proof of transmittal. (13a)

Section 18. *Court-issued orders and other documents*. — The court may electronically serve orders and other documents to all the parties in the case which shall have the same effect and validity as provided herein. A paper copy of the order or other document electronically served shall be retained and attached to the record of the case. (n)

Section 19. *Notice of lis pendens.* —— In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his or her answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names.

The notice of *lis pendens* hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded. (14a)

RULE 14
SUMMONS

Section 1. *Clerk to issue summons*. — Unless the complaint is on its face dismissible under Section 1, Rule 9, the court shall, within five (5) calendar days from receipt of the initiatory pleading and proof of payment of the requisite legal fees, direct the clerk of court to issue the corresponding summons to the defendants. (1a)

Section 2. *Contents*. — The summons shall be directed to the defendant, signed by the clerk of court under seal, and contain:

(a) The name of the court and the names of the parties to the action;

(b) When authorized by the court upon *ex parte motion*, an authorization for the plaintiff to serve summons to the defendant;

(c) A direction that the defendant answer within the time fixed by these Rules; and

(d) A notice that unless the defendant so answers, plaintiff will take judgment by default and may be granted the relief applied for.

A copy of the complaint and order for appointment of guardian *ad litem*, if any, shall be attached to the original and each copy of the summons. (2a)

Section 3. *By whom served*. — The summons may be served by the sheriff, his or her deputy, or other proper court officer, and in case of failure of service of summons by them, the court may authorize the plaintiff - to serve the summons - together with the sheriff.

In cases where summons is to be served outside the judicial region of the court where the case is pending, the plaintiff shall be authorized to cause the service of summons.

If the plaintiff is a juridical entity, it shall notify the court, in writing, and name its authorized representative therein, attaching a board resolution or secretary's certificate thereto, as the case may be, stating that such representative is duly authorized to serve the summons on behalf of the plaintiff.

If the plaintiff misrepresents that the defendant was served summons, and it is later proved that no summons was served, the case shall be dismissed with prejudice, the proceedings shall be nullified, and the plaintiff shall be meted appropriate sanctions.

If summons is returned without being served on any or all the defendants, the court shall order the plaintiff to cause the service of summons by other means available under the Rules.

Failure to comply with the order shall cause the dismissal of the initiatory pleading without prejudice. (3a)

Section 4. *Validity of summons and issuance of alias summons* — Summons shall remain valid until duly served, unless it is recalled by the court. In case of loss or destruction of summons, the court may, upon motion, issue an *alias* summons.

There is failure of service after unsuccessful attempts to personally serve the summons on the defendant in his or her address indicated in the complaint. Substituted service should be in the manner provided under Section 6 of this Rule. (5a)

Section 5. *Service in person on defendant*. — Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person and informing the defendant that he or she is being served, or, if he or she refuses to receive and sign for it, by leaving the summons within the view and in the presence of the defendant. (6a)

Section 6. *Substituted service*. — If, for justifiable causes, the defendant cannot be served personally after at least three (3) attempts on two (2) different dates, service may be effected:

(a) By leaving copies of the summons at the defendant's residence to a person at least eighteen (18) years of age and of sufficient discretion residing therein;

(b) By leaving copies of the summons at the defendant's office or regular place of business with some competent person in charge thereof. A competent person includes, but is not limited to, one who customarily receives correspondences for the defendant;

(c) By leaving copies of the summons, if refused entry upon making his or her authority and purpose known, with any of the officers of the homeowners' association or condominium corporation, or its chief security officer in charge of the community or the building where the defendant may be found; and

(d) By sending an electronic mail to the defendant's electronic mail address, if allowed by the court. (7a)

Section 7. *Service upon entity without juridical personality*. — When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was filed. (8a)

Section 8. *Service upon prisoners*. — When the defendant is a prisoner confined in a jail or institution, service shall be effected upon him or her by the officer having the management of such jail or institution who is deemed as a special sheriff for said purpose. The jail warden shall file a return within five (5) calendar days from service of summons to the defendant. (9a)

Section 9. *Service consistent with international conventions.* — Service may be made through methods which are consistent with established international conventions to which the Philippines is a party. (n)

Section 10. *Service upon minors and incompetents*. — When the defendant is a minor, insane or otherwise an incompetent person, service of summons shall be made upon him or her personally and on his or her legal guardian if he or she has one, or if none, upon his or her guardian *ad litem* whose appointment shall be applied for by the plaintiff. In the case of a minor, service shall be made on his or her parent or guardian. (10a)

Section 11. *Service upon spouses.* — When spouses are sued jointly, service of summons should be made to each spouse individually. (n)

Section 12. *Service upon domestic private juridical entity*. — When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel of the corporation wherever they may be found, or in their absence or unavailability, on their secretaries.

If such service cannot be made upon any of the foregoing persons, it shall be made upon the person who customarily receives the correspondence for the defendant at its principal office.

In case the domestic juridical entity is under receivership or liquidation, service of summons shall be made on the receiver or liquidator, as the case may be.

Should there be a refusal on the part of the persons above-mentioned to receive summons despite at least three (3) attempts on two (2) different dates, service may be made electronically, if allowed by the court, as provided under Section 6 of this Rule. (11a)

Section 13. *Duty of counsel of record.* — Where the summons is improperly served and a lawyer makes a special appearance on behalf of the defendant to, among others, question the validity of service of summons, the counsel shall be deputized by the court to serve summons on his or her client. (n)

Section 14. *Service upon foreign private juridical entities.* — When the defendant is a foreign private juridical entity which has transacted or is doing business in the Philippines, as defined by law, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers, agents, directors or trustees within the Philippines.

If the foreign private juridical entity is not registered in the Philippines, or has no resident agent but has transacted or is doing business in it, as defined by law, such service may, with leave of court, be effected outside of the Philippines through any of the following means:

(a) By personal service coursed through the appropriate court in the foreign country with the assistance of the department of foreign affairs;

(b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by registered mail at the last known address of the defendant;

(c) By facsimile;

(d) By electronic means with the prescribed proof of service; or

(e) By such other means as the court, in its discretion, may direct. (12a)

Section 15. *Service upon public corporations*. — When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct. (13a)

Section 16. *Service upon defendant whose identity or whereabouts are unknown.* — In any action where the defendant is designated as an unknown owner, or the like, or whenever his or her whereabouts are unknown and cannot be ascertained by diligent inquiry, within ninety (90) calendar days from the commencement of the action, service may, by leave of court, be effected upon him or her by publication in a newspaper of general circulation and in such places and for such time as the court may order.

Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (14a)

Section 17. *Extraterritorial service*. — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under Section 6; or as provided for in international conventions to which the Philippines is a party; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (15a)

Section 18. *Residents temporarily out of the Philippines*. — When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding Section. (16a)

Section 19. *Leave of court*. — Any application to the court under this Rule for leave to effect service in any manner for which leave of court is necessary shall be made by motion in writing, supported by affidavit of the plaintiff or some person on his behalf, setting forth the grounds for the application. (17a)

Section 20. *Return.* — Within thirty (30) calendar days from issuance of summons by the clerk of court and receipt thereof, the sheriff or process server, or person authorized by the court, shall complete its service. Within five (5) calendar days from service of summons, the server shall file with the court and serve a copy of the return to the plaintiff's counsel, personally, by registered mail, or by electronic means authorized by the Rules.

Should substituted service have been effected, the return shall state the following:

(1) The impossibility of prompt personal service within a period of thirty (30) calendar days from issue and receipt of summons;

(2) The date and time of the three (3) attempts on at least (2) two different dates to cause personal service and the details of the inquiries made to locate the defendant residing thereat; and

(3) The name of the person at least eighteen (18) years of age and of sufficient discretion residing thereat, name of competent person in charge of the defendant's office or regular place of business, or name of the officer of the homeowners' association or condominium corporation or its chief security officer in charge of the community or building where the defendant may be found. (4a)

Section 21. *Proof of service*. — The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff or his or her deputy.

If summons was served by electronic mail, a printout of said e-mail, with a copy of the summons as served, and the affidavit of the person mailing, shall constitute as proof of service. (18a)

Section 22. *Proof of service by publication.* — If the service has been made by publication, service may be proved by the affidavit of the publisher, editor, business or advertising manager, to which affidavit a copy of the publication shall be attached and by an affidavit showing the deposit of a copy of the summons and order for publication in the post office, postage prepaid, directed to the defendant by registered mail to his or her last known address. (19a)

Section 23. *Voluntary appearance.* — The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall be deemed a voluntary appearance. (20a)

RULE 15
MOTIONS

Section 1**.** *Motion defined*. – A motion is an application for relief other than by a pleading. (1)

Section 2. *Motions must be in writing*. — All motions shall be in writing except those made in open court or in the course of a hearing or trial.

A motion made in open court or in the course of a hearing or trial should immediately be resolved in open court, after the adverse party is given the opportunity to argue his or her opposition thereto.

When a motion is based on facts not appearing on record, the court may hear the matter on affidavits or depositions presented by the respective parties, but the court

may direct that the matter be heard wholly or partly on oral testimony or depositions. (2a)

Section 3. *Contents*. – A motion shall state the relief sought to be obtained and the grounds upon which it is based, and if required by these Rules or necessary to prove facts alleged therein, shall be accompanied by supporting affidavits and other papers. (3)

[Section 4. *Hearing of motion*. — Deleted]

Section 4. *Non-litigious motions.* — Motions which the court may act upon without prejudicing the rights of adverse parties are non-litigious motions. These motions include:

a) Motion for the issuance of an *alias* summons;
b) Motion for extension to file answer;
c) Motion for postponement;
d) Motion for the issuance of a writ of execution;
e) Motion for the issuance of an *alias* writ of execution;
f) Motion for the issuance of a writ of possession;
g) Motion for the issuance of an order directing the sheriff to execute the final certificate of sale; and
h) Other similar motions.

These motions shall not be set for hearing and shall be resolved by the court within five (5) calendar days from receipt thereof. (n)

Section 5. *Litigious motions*. — (a) Litigious motions include:

1) Motion for bill of particulars;
2) Motion to dismiss;
3) Motion for new trial;
4) Motion for reconsideration;
5) Motion for execution pending appeal;
6) Motion to amend after a responsive pleading has been filed;
7) Motion to cancel statutory lien;
8) Motion for an order to break in or for a writ of demolition;
9) Motion for intervention;
10) Motion for judgment on the pleadings;
11) Motion for summary judgment;
12) Demurrer to evidence;
13) Motion to declare defendant in default; and
14) Other similar motions.

(b) All motions shall be served by personal service, accredited private courier or registered mail, or electronic means so as to ensure their receipt by the other party.

(c) The opposing party shall file his or her opposition to a litigious motion within five (5) calendar days from receipt thereof. No other submissions shall be considered by the court in the resolution of the motion.

The motion shall be resolved by the court within fifteen (15) calendar days from its receipt of the opposition thereto, or upon expiration of the period to file such opposition. (n)

Section. 6. *Notice of hearing on litigious motions; discretionary*. — The court may, in the exercise of its discretion, and if deemed necessary for its resolution, call a hearing on the motion. The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing. (5a)

Section 7. *Proof of service necessary*. — No written motion shall be acted upon by the court without proof of service thereof, pursuant to Section 5(b) hereof. (6a)

Section 8. *Motion day*. — Except for motions requiring immediate action, where the court decides to conduct hearing on a litigious motion, the same shall be set on a Friday. (7a)

Section 9. *Omnibus motion*. — Subject to the provisions of Section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived. (8a)

Section 10. *Motion for leave*. — A motion for leave to file a pleading or motion shall be accompanied by the pleading or motion sought to be admitted. (9)

Section 11. *Form*. — The Rules applicable to pleadings shall apply to written motions so far as concerns caption, designation, signature, and other matters of form. (10)

Section. 12. *Prohibited motions.* — The following motions shall not be allowed:

(a) Motion to dismiss except on the following grounds:

1) That the court has no jurisdiction over the subject matter of the claim;
2) That there is another action pending between the same parties for the same cause; and
3) That the cause of action is barred by a prior judgment or by the statute of limitations;

(b) Motion to hear affirmative defenses;

(c) Motion for reconsideration of the court's action on the affirmative defenses;

(d) Motion to suspend proceedings without a temporary restraining order or injunction issued by a higher court;

(e) Motion for extension of time to file pleadings, affidavits or any other papers, except a motion for extension to file an answer as provided by Section 11, Rule 11; and

(f) Motion for postponement intended for delay, except if it is based on acts of God, *force majeure* or physical inability of the witness to appear and testify. If the motion is granted based on such exceptions, the moving party shall be warned that the presentation of its evidence must still be terminated on the dates previously agreed upon.

A motion for postponement, whether written or oral, shall, at all times, be accompanied by the original official receipt from the office of the clerk of court evidencing payment of the postponement fee under Section 21(b), Rule 141, to be submitted either at the time of the filing of said motion or not later than the next hearing date. The clerk of court shall not accept the motion unless accompanied by the original receipt. (n)

Section. 13. *Dismissal with prejudice.* — Subject to the right of appeal, an order granting a motion to dismiss or an affirmative defense that the cause of action is barred by a prior judgment or by the statute of limitations; that the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned or otherwise extinguished; or that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, shall bar the refiling of the same action or claim. (5, R16)

RULE 16
MOTION TO DISMISS

[Provisions either deleted or transposed]

RULE 17
DISMISSAL OF ACTIONS

Section 1. *Dismissal upon notice by plaintiff.* — A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1)

Section 2. *Dismissal upon motion of plaintiff.* — Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him or her of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the

right of the defendant to prosecute his or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)

Section 3. *Dismissal due to fault of plaintiff*. — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)

Section 4. *Dismissal of counterclaim, cross-claim, or third-party complaint*. — The provisions of this Rule shall apply to the dismissal of any counterclaim, cross-claim, or third-party complaint. A voluntary dismissal by the claimant by notice as in Section 1 of this Rule, shall be made before a responsive pleading or a motion for summary judgment is served or, if there is none, before the introduction of evidence at the trial or hearing. (4)

RULE 18
PRE-TRIAL

Section 1. *When conducted.* — After the last responsive pleading has been served and filed, the branch clerk of court shall issue, within five (5) calendar days from filing, a notice of pre-trial which shall be set not later than sixty (60) calendar days from the filing of the last responsive pleading. (1a)

Section. 2. *Nature and Purpose.* — The pre-trial is mandatory and should be terminated promptly. The court shall consider:

(a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;

(b) The simplification of the issues;

(c) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;

(d) The limitation of the number and identification of witnesses and the setting of trial dates;

(e) The advisability of a preliminary reference of issues to a commissioner;

(f) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist;

(g) The requirement for the parties to:

1. Mark their respective evidence if not yet marked in the judicial affidavits of their witnesses;

2. Examine and make comparisons of the adverse parties' evidence *vis-a-vis* the copies to be marked;

3. Manifest for the record stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties' evidence;

4. Reserve evidence not available at the pre-trial, but only in the following manner:

i. For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;

ii. For documentary evidence and other object evidence, by giving a particular description of the evidence.

No reservation shall be allowed if not made in the manner described above.

(h) Such other matters as may aid in the prompt disposition of the action.

The failure without just cause of a party and counsel to appear during pre-trial, despite notice, shall result in a waiver of any objections to the faithfulness of the reproductions marked, or their genuineness and due execution.

The failure without just cause of a party and/or counsel to bring the evidence required shall be deemed a waiver of the presentation of such evidence.

The branch clerk of court shall prepare the minutes of the pre-trial, which shall have the following format: (See prescribed form) (2a)

Section. 3. *Notice of pre-trial.* — The notice of pre-trial shall include the dates respectively set for:

(a) Pre-trial;
(b) Court-Annexed Mediation; and
(c) Judicial Dispute Resolution, if necessary.

The notice of pre-trial shall be served on counsel, or on the party if he or she has no counsel. The counsel served with such notice is charged with the duty of notifying the party represented by him or her.

Non-appearance at any of the foregoing settings shall be deemed as non-appearance at the pre-trial and shall merit the same sanctions under Section 5 hereof. (3a)

Section 4. *Appearance of Parties.* — It shall be the duty of the parties and their counsel to appear at the pre-trial, court-annexed mediation, and judicial dispute resolution, if necessary. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability.

A representative may appear on behalf of a party, but must be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.

Section. 5. *Effect of failure to appear.* — When duly notified, the failure of the plaintiff and counsel to appear without valid cause when so required, pursuant to the next preceding Section, shall cause the dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex-parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered. (5a)

Section 6. *Pre-trial brief.* — The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) calendar days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

(a) A concise statement of the case and the reliefs prayed for;

(b) A summary of admitted facts and proposed stipulation of facts;

(c) The main factual and legal issues to be tried or resolved;

(d) The propriety of referral of factual issues to commissioners;

(e) The documents or other object evidence to be marked, stating the purpose thereof;

(f) The names of the witnesses**,** and the summary of their respective testimonies; and

(g) A brief statement of points of law and citation of authorities.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. (8)

Section 7. *Pre-Trial Order*. — Upon termination of the pre-trial, the court shall issue an order within ten (10) calendar days which shall recite in detail the matters taken up. The order shall include:

(a) An enumeration of the admitted facts;

(b) The minutes of the pre-trial conference;

(c) The legal and factual issue/s to be tried;

(d) The applicable law, rules, and jurisprudence;

(e) The evidence marked;

(f) The specific trial dates for continuous trial, which shall be within the period provided by the Rules;

(g) The case flowchart to be determined by the court, which shall contain the different stages of the proceedings up to the promulgation of the decision and the use of time frames for each stage in setting the trial dates;

(h) A statement that the one-day examination of witness rule and most important witness rule under A.M. No. 03-1-09-SC (Guidelines for Pre-Trial) shall be strictly followed; and

(i) A statement that the court shall render judgment on the pleadings or summary judgment, as the case may be.

The direct testimony of witnesses for the plaintiff shall be in the form of judicial affidavits. After the identification of such affidavits, cross-examination shall proceed immediately.

Postponement of presentation of the parties' witnesses at a scheduled date is prohibited, except if it is based on acts of God, *force majeure* or duly substantiated physical inability of the witness to appear and testify. The party who caused the postponement is warned that the presentation of its evidence must still be terminated within the remaining dates previously agreed upon.

Should the opposing party fail to appear without valid cause stated in the next preceding paragraph, the presentation of the scheduled witness will proceed with the absent party being deemed to have waived the right to interpose objection and conduct cross-examination.

The contents of the pre-trial order shall control the subsequent proceedings, unless modified before trial to prevent manifest injustice. (7a)

Section 8. *Court-Annexed Mediation*. — After pre-trial and, after issues are joined, the court shall refer the parties for mandatory court-annexed mediation.

The period for court-annexed mediation shall not exceed thirty (30) calendar days without further extension. (n)

Section 9. *Judicial Dispute Resolution*. — Only if the judge of the court to which the case was originally raffled is convinced that settlement is still possible, the case may be referred to another court for judicial dispute resolution. The judicial dispute resolution shall be conducted within a non-extendible period of fifteen (15) calendar days from notice of failure of the court-annexed mediation.

If judicial dispute resolution fails, trial before the original court shall proceed on the dates agreed upon.

All proceedings during the court-annexed mediation and the judicial dispute resolution shall be confidential. (n)

Section. 10. *Judgment after pre-trial*. — Should there be no more controverted facts, or no more genuine issue as to any material fact, or an absence of any issue, or should the answer fail to tender an issue, the court shall, without prejudice to a party moving for judgment on the pleadings under Rule 34 or summary judgment under Rule 35, *motu proprio* include in the pre-trial order that the case be submitted for summary judgment or judgment on the pleadings, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial.

The order of the court to submit the case for judgment pursuant to this Rule shall not be the subject to appeal or *certiorari*. (n)

RULE 19
INTERVENTION

Section 1. *Who may intervene*. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (1)

Section 2. *Time to intervene*. — The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (2)

Section 3. *Pleadings-in-intervention*. — The intervenor shall file a complaint-in-intervention if he or she asserts a claim against either or all of the original parties, or an answer-in-intervention if he or she unites with the defending party in resisting a claim against the latter. (3a)

Section 4. *Answer to complaint-in-intervention*. — The answer to the complaint-in-intervention shall be filed within fifteen (15) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. (4a)

RULE 20
CALENDAR OF CASES

Section 1. *Calendar of cases*. — The clerk of court, under the direct supervision of the judge, shall keep a calendar of cases for pre-trial, for trial, those whose trials were adjourned or postponed, and those with motions to set for hearing. Preference shall be given to *habeas corpus* cases, election, cases, special civil actions, and those so required by law. (1)

Section 2. *Assignment of cases*. — The assignment of cases to the different branches of a court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present. (2)

RULE 21
SUBPOENA

Section 1. *Subpoena and subpoena duces tecum*. — Subpoena is a process directed to a person requiring him or her to attend and to testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his or her deposition. It may also require him or her to bring with him or her any books, documents, or other things under his or her control, in which case it is called a subpoena *duces tecum*. (1a)

Section 2. *By whom issued*. — The subpoena may be issued by -

(a) The court before whom the witness is required to attend;

(b) The court of the place where the deposition is to be taken;

(c) The officer or body authorized by law to do so in connection with investigations conducted by said officer or body; or

(d) Any Justice of the Supreme Court or the Court of Appeals in any case or investigation pending within the Philippines.

When an application for a subpoena to a prisoner is made, the judge or officer shall examine and study carefully such application to determine whether the same is made for a valid purpose.

No prisoner sentenced to death, *reclusion perpetua* or life imprisonment and who is confined in any penal institution shall be brought outside the penal institution for appearance or attendance in any court unless authorized by the Supreme Court. (2a)

Section 3. *Form and contents*. — A subpoena shall state the name of the court and the title of the action or investigation, shall be directed to the person whose attendance is required, and in the case of a subpoena *duces tecum*, it shall also contain a reasonable description of the books, documents or things demanded which must appear to the court *prima facie* relevant. (3)

Section 4. *Quashing a subpoena*. — The court may quash a subpoena *duces tecum* upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

The court may quash a subpoena *ad testificandum* on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by these Rules were not tendered when the subpoena was served. (4)

Section 5. *Subpoena for depositions*. — Proof of service of a notice to take a deposition, as provided in Sections 15 and 25 of Rule 23, shall constitute sufficient authorization for the issuance of subpoenas for the persons named in said notice by the clerk of the court of the place in which the deposition is to be taken. The clerk shall not, however, issue a subpoena *duces tecum* to any such person without an order of the court. (5)

Section 6. *Service.* — Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.

Costs for court attendance and the production of documents and other materials subject of the subpoena shall be tendered or charged accordingly. (6a)

Section 7. *Personal appearance in court*. — A person present in court before a judicial officer may be required to testify as if he or she were in attendance upon a subpoena issued by such court or officer. (7a)

Section 8. *Compelling attendance.* — In case of failure of a witness to attend, the court or judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his or her deputy, to arrest the witness and bring him or her before the court or officer where his or her attendance is required, and the cost of such warrant and seizure of such witness shall be paid by the witness if the court issuing it shall determine that his or her failure to answer the subpoena was willful and without just excuse. (8a)

Section 9. *Contempt*. — Failure by any person without adequate cause to obey a subpoena served upon him or her shall be deemed a contempt of the court from which the subpoena is issued. If the subpoena was not issued by a court, the

disobedience thereto shall be punished in accordance with the applicable law or Rule. (9a)

Section 10. *Exceptions*. — The provisions of Sections 8 and 9 of this Rule shall not apply to a witness who resides more than one hundred (100) kilometers from his or her residence to the place where he or she is to testify by the ordinary course of travel, or to a detention prisoner if no permission of the court in which his or her case is pending was obtained. (10a)

RULE 22
COMPUTATION OF TIME

Section 1. *How to compute time*. — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. (1)

Section 2. *Effect of Interruption*. — Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof.

The day of the act that caused the interruption shall be excluded in the computation of the period. (2)

RULE 23
DEPOSITIONS PENDING ACTIONS

Section 1. *Depositions pending action*, *when may be taken*. — Upon *ex parte* motion of a party, the testimony of any person, whether a party or not, may be taken by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. (1a)

Section 2. *Scope of examination*. — Unless otherwise ordered by the court as provided by Section 16 or 18 of this Rule, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject of the pending action, whether relating to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. (2)

Section 3. *Examination and cross-examination*. — Examination and cross-examination of deponents may proceed as permitted at the trial under Sections 3 to 18 of Rule 132. (3)

Section 4. *Use of depositions*. — At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness;

(b) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose;

(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (1) that the witness is dead; or (2) that the witness resides at a distance more than one hundred (100) kilometers from the place of trial or hearing, or is out of the Philippines, unless it appears that his or her absence was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (5) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used; and

(d) If only part of a deposition is offered in evidence by a party, the adverse party may require him or her to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. (4a)

Section 5. *Effect of substitution of parties*. — Substitution of parties does not affect the right to use depositions previously taken; and, when an action has been dismissed and another action involving the same subject is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. (5)

Section 6. *Objections to admissibility*. — Subject to the provisions of Section 29 of this Rule, objections may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. (6)

Section 7. *Effect of taking depositions*. — A party shall not be deemed to make a person his or her own witness for any purpose by taking his or her deposition. (7a)

Section 8. *Effect of using depositions*. — The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (b) of Section 4 of this Rule. (8)

Section 9. *Rebutting deposition*. — At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or by any other party. (9a)

Section 10. *Persons before whom depositions may be taken within the Philippines*. — Within the Philippines, depositions may be taken before any judge, notary public, or the person referred to in Section 14 hereof. (10)

Section 11. *Persons before whom depositions may be taken in foreign countries*. — In a foreign state or country, depositions may be taken (a) on notice before a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the Republic of the Philippines; (b) before such person or officer as may be appointed by commission or under letters rogatory; or (c) the person referred to in Section 14 hereof. (11)

Section 12. *Commission or letters rogatory*. — A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such direction as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed to the appropriate judicial authority in the foreign country. (12)

Section 13. *Disqualification by interest*. — No deposition shall be taken before a person who is a relative within the sixth degree of consanguinity or affinity, or employee or counsel of any of the parties; or who is a relative within the same degree, or employee of such counsel; or who is financially interested in the action. (13)

Section 14. *Stipulations regarding taking of depositions*. — If the parties so stipulate in writing, depositions may be taken before any person authorized to administer oaths, at any time or place, in accordance with these Rules, and when so taken may be used like other depositions. (14)

Section 15. *Deposition upon oral examination*; *notice*; *time and place*. — A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or her or the particular class or group to which he or she belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time. (15a)

Section 16. *Orders for the protection of parties and deponents*. — After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and for good cause shown, the court in which the action is pending may make the following orders:

(a) That the deposition shall not be taken;
(b) That the deposition may be taken only at some designated place other than that stated in the notice;
(c) That the deposition may be taken only on written interrogatories;
(d) That certain matters shall not be inquired into;
(e) That the scope of the examination shall be held with no one present except the parties to the action and their officers or counsel;
(f) That after being sealed the deposition shall be opened only by order of the court;
(g) That secret processes, developments, or research need not be disclosed; or
(h) That the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

The court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. (16a)

Section 17. *Record of examination*; *oath*; *objections*. — The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by some one acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony shall be taken stenographically unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officers, who shall propound them to the witness and record the answers *verbatim*. (17a)

Section 18. *Motion to terminate or limit examination*. — At any time during the taking of the deposition, on motion or petition of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the Regional Trial Court of the place where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition, as provided in Section 16 of this Rule. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a notice for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable. (18)

Section 19. *Submission to witness*; *changes*; *signing*. — When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him or her, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason given therefor, if any, and the deposition may then be used as fully as though signed, unless on a motion to suppress under Section 29(f) of this Rule, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. (19a)

Section 20. *Certification and filing by officer*. — The officer shall certify on the deposition that the witness was duly sworn to by him or her and that the deposition is a true record of the testimony given by the witness. He or she shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert the name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing. (20a)

Section 21. *Notice of filing*. — The officer taking the deposition shall give prompt notice of its filing to all the parties. (21)

Section 22. *Furnishing copies*. — Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent. (22)

Section 23. *Failure to attend of party giving notice*. — If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another attends in person or by counsel pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him or her and his or her counsel in so attending, including reasonable attorney's fees. (23a)

Section 24. *Failure of party giving notice to serve subpoena*. — If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him or her and the witness because of such failure does not attend, and if another party attends in person or by counsel because he or she expects the deposition of that witness to be taken, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him or her and his or her counsel in so attending, including reasonable attorney's fees. (24a)

Section 25. *Deposition upon written interrogatories*; *service of notice and of interrogatories*. — A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken.

Within ten (10) calendar days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five (5) calendar days thereafter the latter may serve re-direct interrogatories upon a party who has served cross-interrogatories. Within three (3) calendar days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the party proposing to take the deposition. (25a)

Section 26. *Officers to take responses and prepare record*. — A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Sections 17, 19 and 20 of this Rule, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him or her. (26a)

Section 27. *Notice of filing and furnishing copies*. —When a deposition upon interrogatories is filed, the officer taking it shall promptly give notice thereof to all the parties and may furnish copies to them or to the deponent upon payment of reasonable charges therefor. (27)

Section 28. *Orders for the protection of parties and deponents*. — After the service of the interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, and for good cause shown, may make any order specified in Sections 15, 16 and 18 of this Rule which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination. (28)

Section 29. *Effect of errors and irregularities in depositions*. —

(a) *As to notice*. — All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(b) *As to disqualification of officer*. — Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to competency or relevancy of evidence*. — Objections to the competency of a witness or the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(d) *As to oral examination and other particulars*. — Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the

conduct of the parties and errors of any kind which might be obviated, removed, or cured if promptly prosecuted, are waived unless reasonable objection thereto is made at the taking of the deposition.

(e) *As to form of written interrogatories*. — Objections to the form of written interrogatories submitted under Sections 25 and 26 of this Rule are waived unless served in writing upon the party propounding them within the time allowed for serving succeeding cross or other interrogatories and within three (3) calendar days after service of the last interrogatories authorized.

(f) *As to manner of preparation*. — Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Sections 17, 19, 20 and 26 of this Rules are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (29a)

RULE 24
DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

Section 1. *Depositions before action; petition*. — A person who desires to perpetuate his or her own testimony or that of another person regarding any matter that may be cognizable in any court of the Philippines, may file a verified petition in the court of the place of the residence of any expected adverse party. (1a)

Section 2. *Contents of petition*. — The petition shall be entitled in the name of the petitioner and shall show: (a) that the petitioner expects to be a party to an action in a court of the Philippines but is presently unable to bring it or cause it to be brought; (b) the subject matter of the expected action and his or her interest therein; (c) the facts which he or she desires to establish by the proposed testimony and his or her reasons for desiring to perpetuate it; (d) the names or a description of the persons he or she expects will be adverse parties and their addresses so far as known; and (e) the names and addresses of the persons to be examined and the substance of the testimony which he or she expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition for the purpose of perpetuating their testimony. (2a)

Section 3. *Notice and service*. — The petitioner shall serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty (20) calendar days before the date of the hearing, the court shall cause notice thereof to be served on the parties and prospective deponents in the manner provided for service of summons. (3a)

Section 4. *Order and examination*. — If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose deposition may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with Rule 23 before the hearing. (4)

Section 5. *Reference to court*. — For the purpose of applying Rule 23 to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed. (5)

Section 6. *Use of deposition*. — If a deposition to perpetuate testimony is taken under this Rule, or if, although not so taken, it would be admissible in evidence, it may be used in any action involving the same subject matter subsequently brought in accordance with the provisions of Sections 4 and 5 of Rule 23. (6)

Section 7. *Depositions pending appeal*. — If an appeal has been taken from a judgment of a court, including the Court of Appeals in proper cases, or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the said court. In such case the party who desires to perpetuate the testimony may make a motion in the said court for leave to take the depositions, upon the same notice and service thereof as if the action was pending therein. The motion shall state (a) the names and addresses of the persons to be examined and the substance of the testimony which he <u>or she</u> expects to elicit from each; and (b) the reason for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these Rules for depositions taken in pending actions. (7a)

RULE 25
INTERROGATORIES TO PARTIES

Section 1. *Interrogatories to parties*; *service thereof.* — <u>Upon *ex parte* motion</u>, any party desiring to elicit material and relevant facts from any adverse parties shall file and serve upon the latter written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. (1a)

Section 2. *Answer to interrogatories*. — The interrogatories shall be answered fully in writing and shall be signed and sworn to by the person making them. The party upon whom the interrogatories have been served shall file and serve a copy of the answers on the party submitting the interrogatories within fifteen (15) <u>calendar</u> days

after service thereof, unless the court, on motion and for good cause shown, extends or shortens the time. (2a)

Section 3. *Objections to interrogatories*. — Objections to any interrogatories may be presented to the court within ten (10) calendar days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are resolved, which shall be at as early a time as is practicable. (3a)

Section 4. *Number of interrogatories*. — No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party. (4)

Section 5. *Scope and use of interrogatories*. — Interrogatories may relate to any matters that can be inquired into under Section 2 of Rule 23, and the answers may be used for the same purposes provided in Section 4 of the same Rule. (5)

Section 6. *Effect of failure to serve written interrogatories*. — Unless thereafter allowed by the court for good cause shown and to prevent a failure of justice, a party not served with written interrogatories may not be compelled by the adverse party to give testimony in open court, or to give a deposition pending appeal. (6)

RULE 26
ADMISSION BY ADVERSE PARTY

Section 1. *Request for admission*. — At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (1)

Section 2. *Implied admission*. — Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) calendar days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he or she cannot truthfully either admit or deny those matters.

Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his or her sworn statement as contemplated in the preceding paragraph and his or her compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (2a)

Section 3. *Effect of admission*. — Any admission made by a party pursuant to such request is for the purpose of the pending action only and shall not constitute an admission by him or her for any other purpose nor may the same be used against him or her in any other proceeding. (3a)

Section 4. *Withdrawal*. — The court may allow the party making an admission under this Rule, whether express or implied, to withdraw or amend it upon such terms as may be just. (4)

Section 5. *Effect of failure to file and serve request for admission*. — Unless otherwise allowed by the court for good cause shown and to prevent a failure of justice, a party who fails to file and serve a request for admission on the adverse party of material and relevant facts at issue which are, or ought to be, within the personal knowledge of the latter, shall not be permitted to present evidence on such facts. (5)

RULE 27
PRODUCTION OR INSPECTION OF DOCUMENTS OR THINGS

Section 1. *Motion for production or inspection*; *order*. — Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his or her possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his or her possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. (1a)

RULE 28
PHYSICAL AND MENTAL EXAMINATION OF PERSONS

Section 1. *When examination may be ordered*. — In an action in which the mental or physical condition of a party is in controversy, the court in which the action is pending may in its discretion order him or her to submit to a physical or mental examination by a physician. (1a)

Section 2. *Order for examination*. — The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. (2)

Section 3. *Report of findings*. — If requested by the party examined, the party causing the examination to be made shall deliver to him or her a copy of a detailed

written report of the examining physician setting out his or her findings and conclusions. After such request and delivery, the party causing the examination to be made shall be entitled upon request to receive from the party examined a like report of any examination, previously or thereafter made, of the same mental or physical condition. If the party examined refuses to deliver such report, the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician fails or refuses to make such a report, the court may exclude his or her testimony if offered at the trial. (3a)

Section 4. *Waiver of privilege*. — By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he or she may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him or her in respect of the same mental or physical examination. (4a)

RULE 29
REFUSAL TO COMPLY WITH MODES OF DISCOVERY

Section 1. *Refusal to answer*. — If a party or other deponent refuses to answer any question upon oral examination, the examination may be completed on other matters or adjourned as the proponent of the question may prefer. The proponent may thereafter apply to the proper court of the place where the deposition is being taken, for an order to compel an answer. The same procedure may be availed of when a party or a witness refuses to answer any interrogatory submitted under Rules 23 or 25.

If the application is granted, the court shall require the refusing party or deponent to answer the question or interrogatory and if it also finds that the refusal to answer was without substantial justification, it may require the refusing party or deponent or the counsel advising the refusal, or both of them, to pay the proponent the amount of the reasonable expenses incurred in obtaining the order, including attorney's fees.

If the application is denied and the court finds that it was filed without substantial justification, the court may require the proponent or the counsel advising the filing of the application, or both of them, to pay to the refusing party or deponent the amount of the reasonable expenses incurred in opposing the application, including attorney's fees. (1)

Section 2. *Contempt of court*. — If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court of the place in which the deposition is being taken, the refusal may be considered a contempt of that court (2).

Section 3. *Other consequences*. — If any party or an officer or managing agent of a party refuses to obey an order made under Section 1 of this Rule requiring him or

her to answer designated questions, or an order under Rule 27 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 28 requiring him or her to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following:

(a) (a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting him or her from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;

(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgement by default against the disobedient party; and

(d) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental examination. (3a)

Section 4. *Expenses on refusal to admit*. — If a party after being served with a request under Rule 26 to admit the genuineness of any document or the truth of any matter of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of such document or the truth of any such matter of fact, he or she may apply to the court for an order requiring the other party to pay him or her the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that admissions sought were of no substantial importance, such order shall be issued. (4a)

SECTION 5. *Failure of party to attend or serve answers*. — If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his or her deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 25 after proper service of such interrogatories, the court on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, and in its discretion, order him or her to pay reasonable expenses incurred by the other, including attorney's fees. (5a)

Section 6. *Expenses against the Republic of the Philippines*. —Expenses and attorney’s fees are not to be imposed upon the Republic of the Philippines under this Rule. (6)

RULE 30
TRIAL

Section 1. *Schedule of trial*. — The parties shall strictly observe the scheduled hearings as agreed upon and set forth in the pre-trial order.

(a) The schedule of the trial dates, for both plaintiff and defendant, shall be continuous and within the following periods:

i. The initial presentation of plaintiff's evidence shall be set not later than thirty (30) calendar days after the termination of the pre-trial conference. Plaintiff shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days which shall include the date of the judicial dispute resolution, if necessary;

ii. The initial presentation of defendant's evidence shall be set not later than thirty (30) calendar days after the court's ruling on plaintiff's formal offer of evidence. The defendant shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days;

iii. The period for the presentation of evidence on the third (fourth, etc.) -party claim, counterclaim or cross-claim shall be determined by the court, the total of which shall in no case exceed ninety (90) calendar days; and

iv. If deemed necessary, the court shall set the presentation of the parties' respective rebuttal evidence, which shall be completed within a period of thirty (30) calendar days.

(b) The trial dates may be shortened depending on the number of witnesses to be presented, provided that the presentation of evidence of all parties shall be terminated within a period of ten (10) months or three hundred (300) calendar days. If there are no third (fourth, etc.)-party claim, counterclaim or cross-claim, the presentation of evidence shall be terminated within a period of six (6) months or one hundred eighty (180) calendar days.

(c) The court shall decide and serve copies of its decision to the parties within a period not exceeding ninety (90) calendar days from the submission of the case for resolution, with or without memoranda. (n)

Section 2. *Adjournments and postponements.* — A court may adjourn a trial from day to day, and to any stated time, as the expeditious and convenient transaction of business may require, but shall have no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Court Administrator, Supreme Court.

The party who caused the postponement is warned that the presentation of its evidence must still be terminated on the remaining dates previously agreed upon. (2a)

[Section 3. *Requisites of motion to postpone trial for absence of evidence.* — Deleted]

Section 3. *Requisites of motion to postpone trial for illness of party or counsel.* — A motion to postpone a trial on the ground of illness of a party or counsel may be granted if it appears upon affidavit or sworn certification that the presence of such party or counsel at the trial is indispensable and that the character of his or her illness is such as to render his or her non-attendance excusable. (4a)

Section 4. *Hearing days and calendar call.* — Trial shall be held from Monday to Thursday, and courts shall call the cases at exactly 8:30 a.m. and 2:00 p.m., pursuant to Administrative Circular No. 3-99. Hearing on motions shall be held on Fridays, pursuant to Section 8, Rule 15.

All courts shall ensure the posting of their court calendars outside their courtrooms at least one (1) day before the scheduled hearings, pursuant to OCA Circular No. 250-2015. (n)

Section 5. *Order of trial.* — Subject to the provisions of Section 2 of Rule 31, and unless the court for special reasons otherwise directs, the trial shall be limited to the issues stated in the pre-trial order and shall proceed as follows:

(a) The plaintiff shall adduce evidence in support of his or her complaint;

(b) The defendant shall then adduce evidence in support of his or her defense, counterclaim, cross-claim and third-party complaint;

(c) The third-party defendant, if any, shall adduce evidence of his or her defense, counterclaim, cross-claim and fourth-party complaint;

(d) The fourth-party, and so forth, if any, shall adduce evidence of the material facts pleaded by them;

(e) The parties against whom any counterclaim or cross-claim has been pleaded, shall adduce evidence in support of their defense, in the order to be prescribed by the court;

(f) The parties may then respectively adduce rebutting evidence only, unless the court, for good reasons and in the furtherance of justice, permits them to adduce evidence upon their original case; and

(g) Upon admission of the evidence, the case shall be deemed submitted for decision, unless the court directs the parties to argue or to submit their respective memoranda or any further pleadings.

If several defendants or third-party defendants, and so forth, having separate defenses appear by different counsel, the court shall determine the relative order of presentation of their evidence. (5a)

Section 6. *Oral offer of exhibits.* — The offer of evidence, the comment or objection thereto, and the court ruling shall be made orally in accordance with Sections 34 to 40 of Rule 132. (n)

Section 7. *Agreed statement of facts.* — The parties to any action may agree, in writing, upon the facts involved in the litigation, and submit the case for judgment on the facts agreed upon, without the introduction of evidence.

If the parties agree only on some of the facts in issue, the trial shall be held as to the disputed facts in such order as the court shall prescribe. (6)

[Section 7. *Statement of judge.* — Deleted]

Section 8. *Suspension of actions*. — The suspension of actions shall be governed by the provisions of the Civil Code and other laws. (8a)

Section 9**.** *Judge to receive evidence; delegation to clerk of court.* — The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or *ex parte* hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar. The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his or her report and the transcripts within ten (10) calendar days from termination of the hearing. (9a)

RULE 31
CONSOLIDATION OR SEVERANCE

Section 1. *Consolidation*. — When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (1)

Section 2. *Separate trials*. — The court, in furtherance of convenience or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, or third-party complaint, or of any separate issue or of any number of claims, crossclaims, counterclaims, third-party complaints or issues. (2)

RULE 32
TRIAL BY COMMISSIONER

Section 1. *Reference by consent*. — By written consent of both parties, the court may order any or all of the issues in a case to be referred to a commissioner to be agreed upon by the parties or to be appointed by the court. As used in these Rules, the word "commissioner" includes a referee, an auditor and an examiner. (1)

Section 2. *Reference ordered on motion*. — When the parties do not consent, the court may, upon the application of either or of its own motion, direct a reference to a commissioner in the following cases:

(a) When the trial of an issue of fact requires the examination of a long account on either side, in which case the commissioner may be directed to hear and report upon the whole issue or any specific question involved therein;

(b) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect;

(c) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect. (2)

Section 3. *Order of reference; powers of the commissioner*. — When a reference is made, the clerk shall forthwith furnish the commissioner with a copy of the order of reference. The order may specify or limit the powers of the commissioner, and may direct him or her to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his or her report. Subject to the specifications and limitations stated in the order, the commissioner has and shall exercise the power to regulate the proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of his or her duties under the order. He or she may issue subpoenas and subpoenas *duces tecum*, swear witnesses, and unless otherwise provided in the order of reference, he or she may rule upon the admissibility of evidence. The trial or hearing before him or her shall proceed in all respects as it would if held before the court. (3a)

Section 4. *Oath of commissioner*. — Before entering upon his or her duties the commissioner shall be sworn to a faithful and honest performance thereof. (4a)

Section 5. *Proceedings before commissioner*. — Upon receipt of the order of reference unless otherwise provided therein, the commissioner shall forthwith set a time and place for the first meeting of the parties or their counsel to be held within ten (10) calendar days after the date of the order of reference and shall notify the parties or their counsel. (5a)

Section 6. *Failure of parties to appear before commissioner*. — If a party fails to appear at the time and place appointed, the commissioner may proceed *ex parte* or, in his or her discretion, adjourn the proceedings to a future day, giving notice to the absent party or his or her counsel of the adjournment. (6a)

Section 7. *Refusal of witness*. — The refusal of a witness to obey a subpoena issued by the commissioner or to give evidence before him or her, shall be deemed a contempt of the court which appointed the commissioner. (7a)

Section 8. *Commissioner shall avoid delays*. — It is the duty of the commissioner to proceed with all reasonable diligence. Either party, on notice to the parties and commissioner, may apply to the court for an order requiring the commissioner to expedite the proceedings and to make his or her report. (8a)

Section 9. *Report of commissioner*. — Upon the completion of the trial or hearing or proceeding before the commissioner, he or she shall file with the court his or her report in writing upon the matters submitted to him or her by the order of reference. When his or her powers are not specified or limited, he or she shall set forth his or her findings of fact and conclusions of law in his or her report. He or she shall attach thereto all exhibits, affidavits, depositions, papers and the transcript, if any, of the testimonial evidence presented before him or her. (9a)

Section 10. *Notice to parties of the filing of report*. — Upon the filing of the report, the parties shall be notified by the clerk, and they shall be allowed ten (10) calendar days within which to signify grounds of objections to the findings of the report, if they so desire. Objections to the report based upon grounds which were available to the parties during the proceedings before the commissioner, other than objections to the findings and conclusions therein set forth, shall not be considered by the court unless they were made before the commissioner. (10a)

Section 11. *Hearing upon report*. — Upon the expiration of the period of ten (10) calendar days referred to in the preceding section, the report shall be set for hearing, after which the court shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the commissioner or the court. (11a)

Section 12. *Stipulations as to findings*. — When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (12)

Section 13. *Compensation of commissioner*. — The court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires. (13)

RULE 33
DEMURRER TO EVIDENCE

Section 1. *Demurrer to evidence*. — After the plaintiff has completed the presentation of his or her evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his or her motion is denied, he or she shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed, he or she shall be deemed to have waived the right to present evidence. (1a)

Section 2. *Action on demurrer to evidence.* — A demurrer to evidence shall be subject to the provisions of Rule 15.

The order denying the demurrer to evidence shall not be subject of an appeal or petition for *certiorari*, prohibition or mandamus before judgment. (n)

RULE 34
JUDGMENT ON THE PLEADINGS

Section 1. *Judgment on the pleadings.* – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved. (1)

Section 2. *Action on motion for judgment on the pleadings.* — The court may *motu proprio* or on motion render judgment on the pleadings if it is apparent that the answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleadings. Otherwise, the motion shall be subject to the provisions of Rule 15 of these Rules.

Any action of the court on a motion for judgment on the pleadings shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (n)

RULE 35
SUMMARY JUDGMENTS

Section 1. *Summary judgment for claimant*. — A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor upon all or any part thereof. (1a)

Section 2. *Summary judgment for defending party*. — A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any

time, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor as to all or any part thereof. (2a)

Section 3. *Motion and proceedings thereon.* — The motion shall cite the supporting affidavits, depositions or admissions, and the specific law relied upon. The adverse party may file a comment and serve opposing affidavits, depositions, or admissions within a non-extendible period of five (5) calendar days from receipt of the motion. Unless the court orders the conduct of a hearing, judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Any action of the court on a motion for summary judgment shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (3a)

Section 4. *Case not fully adjudicated on motion.* — If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court may, by examining the pleadings and the evidence before it and by interrogating counsel, ascertain what material facts exist without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and direct such further proceedings in the action as are just. The facts so ascertained shall be deemed established, and the trial shall be conducted on the controverted facts accordingly. (4a)

Section 5. *Form of affidavits and supporting papers*. — Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Certified true copies of all papers or parts thereof referred to in the affidavit shall be attached thereto or served therewith. (5)

Section 6. *Affidavits in bad faith*. — Should it appear to its satisfaction at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith, or solely for the purpose of delay, the court shall forthwith order the offending party or counsel to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him or her to incur, including attorney's fees, it may, after hearing further adjudge the offending party or counsel guilty of contempt. (6a)

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RULE 144
EFFECTIVENESS

These rules shall take effect on January 1, 1964. They shall govern all cases brought after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which even the former procedure shall apply.

The 2019 Proposed Amendments to the 1997 Rules of Civil Procedure shall govern all cases filed after their effectivity on May 1, 2020, and also all pending proceedings, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern. (n)

The application and adherence to the said amendments shall be subject to periodic monitoring by the Sub-Committee, through the Office of the Court Administrator (OCA). For this purpose, all courts covered by the said amendments shall accomplish and submit a periodic report of data in a form to be generated and distributed by the OCA. (n)

All rules, resolutions, regulations or circulars of the Supreme Court or parts thereof that are inconsistent with any provision of the said amendments are hereby deemed repealed or modified accordingly. (n)

PRESCRIBED FORM NO. 1

NOTICE OF PRE-TRIAL

The parties are hereby required to appear personally or through their duly authorized representative, and their counsel in the Pre-Trial on _____ at _____ o'clock A.M./P.M., and in the following proceedings:

1. COURT-ANNEXED MEDIATION: (To be scheduled at pre-trial)

2. JUDICIAL DISPUTE RESOLUTION: (To be scheduled at pre-trial if deemed necessary by the court.)

The parties and their counsels are required to be present at the pre-trial and to file with the court and serve on the adverse party at least three (3) days before the date of the pre-trial their respective pre-trial briefs which shall contain, among others:

(a) A concise statement of the case and the reliefs prayed for;

(b) A summary of admitted facts and proposed stipulation of facts;

(c) The main factual and legal issues to be tried or resolved;

(d) The propriety of referral of factual issues to commissioners;

(e) The documents or other object evidence to be marked, stating the purpose thereof;

(f) The names of the witnesses, and the summary of their respective testimonies; and

(g) Brief statement of points of law and citation of authorities.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Non-appearance at the Pre-Trial or any of the foregoing settings shall merit the sanction of dismissal of the action, for the plaintiff's and his or her counsel's non-appearance, and allowance of plaintiff's *ex parte* evidence presentation and *ex parte* judgment, for defendant's and his or her counsel's non-appearance. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability.

A representative, through a special power of attorney, may appear on behalf of a party, but shall be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admission of facts and documents.

The parties and their counsel, who are required to attend the Pre-Trial shall be ready.

No reservation of evidence not available during the Pre-Trial shall be allowed unless done in the following manner:

(a) For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;

(b) For documentary evidence and other object evidence, and electronic evidence, by giving a particular description of the evidence.

The failure without just cause of a party and counsel to appear at the Pre-Trial, despite notice, shall result in a waiver of any objections to the faithfulness of the reproductions marked, or their genuineness and due execution.

The failure without just cause of a party and counsel to bring the evidence required at the Pre-Trial shall be deemed a waiver of the presentation of such evidence.

WITNESS, the HON. _____, Presiding Judge of this Court, this _____ day of _____, 20 _____ at _____.

_____

Branch Clerk of Court

PRESCRIBED FORM NO. 2

PRE-TRIAL ORDER

I. PLAINTIFF'S EVIDENCE

A. Documentary and other Object Evidence:

Exhibit "A" – Description;
Exhibit "B" – Description;
Exhibit "C" – Description;

B. Testimonial Evidence:

Judicial Affidavit of _____;
Judicial Affidavit of _____;
Judicial Affidavit of _____;

C. Reserved Evidence:

Description;

II. DEFENDANT'S EVIDENCE

A. Documentary and other Object Evidence:

Exhibit "A" – Description;
Exhibit "B" – Description;
Exhibit "C" – Description;

B. Testimonial Evidence:

Judicial Affidavit of _____;
Judicial Affidavit of _____;
Judicial Affidavit of _____;

C. Reserved Evidence:

Description;

Evidence not pre-marked and listed herein shall not be allowed during trial.

III. ADMITTED FACTS AND STIPULATION OF FACTS

IV. ISSUES TO BE TRIED OR RESOLVED

In case there are no more controverted facts or genuine issues to be resolved, the court shall so declare in the pre-trial order and shall *motu proprio* consider the case submitted, without prejudice to a party moving, for judgment on the pleadings or summary judgment, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial. However, if there are controverted facts or genuine issues to be resolved, the court shall first refer the case to the Philippine Mediation Center Unit for mediation purposes.

V. MANIFESTATION OF PARTIES HAVING AVAILED OR THEIR INTENTION TO AVAIL OF DISCOVERY PROCEDURES OR REFERRAL TO COMMISSIONERS

VI. NUMBER AND NAMES OF WITNESSES, THE SUBSTANCE OF THEIR TESTIMONIES, AND APPROXIMATE NUMBER OF HOURS THAT WILL BE REQUIRED BY THE PARTIES FOR THE PRESENTATION OF THEIR RESPECTIVE WITNESSES

VII. SCHEDULE OF CONTINUOUS TRIAL DATES FOR BOTH PLAINTIFF AND DEFENDANT

Trial shall proceed on _____, all at 8:30 A.M. and 2:00 P.M., for the plaintiff or claiming party to present and terminate its evidence; and on _____, all at 8:30 A.M. and 2:00 P.M., for the defendant or defending party to present and terminate its evidence.*[*This will depend on the number of witnesses listed. It is suggested that for every witness, at least two (2) trial dates should be allotted. The trial dates may likewise be one (1) day apart.*]

The trial dates are final and intransferrable, and no motions for postponement that are dilatory in character shall be entertained by the court. If such motions are granted in exceptional cases, the postponement/s by either party shall be deducted from such party's allotted time to present evidence.

The parties are hereby ordered to immediately proceed and personally appear at the Philippine Mediation Center located at _____ (PMC Unit) today, (*date today*) with or without their counsel/s, for mediation proceedings. The assigned Mediator is ordered to submit a report to this court on the results of the mediation based on the factual and legal issues to be resolved within a non-extendible period of thirty (30) calendar days from the date of the court's referral of this case to the PMC Unit.

Should mediation fail after the lapse of the said 30-day period, the parties are ordered to appear before the court so that the trial shall proceed on the trial dates indicated above. Only if the judge of the court to which the case was originally raffled is convinced that settlement is possible that the case may be referred to another court for judicial dispute resolution, which shall be conducted within a non-extendible period of fifteen (15) calendar days from notice of the

court-annexed mediation. If judicial dispute resolution fails, trial before the original court shall proceed on the dates agreed upon.

Failure of the party or his or her counsel to comply with the abovementioned schedule of hearings and deadlines shall be a ground for imposition of fines and other sanctions by the court.

The parties and their counsel are hereby notified hereof, and the court shall no longer issue a *subpoena* to the parties present today.

CONFORMITY

_____	_____
Plaintiff	*Defendant*
_____	_____
Plaintiff's Counsel	*Defendant's Counsel*

ATTESTED:

_____
Branch Clerk of Court

NOTED BY:

_____
Presiding Judge