

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated **FEBRUARY 9, 2021** which reads as follows:*

**“A.M No. 19-10-20-SC**

**2020 GUIDELINES FOR THE CONDUCT OF THE COURT-  
ANNEXED MEDIATION (CAM) AND JUDICIAL DISPUTE  
RESOLUTION (JDR) IN CIVIL CASES**

**WHEREAS**, in Resolution No. 44-2020 dated December 3, 2020, the Philippine Judicial Academy Board of Trustees (PHILJA BOT) resolved to approve the 2020 Guidelines for the Conduct of the Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) in Civil Cases;

**WHEREAS**, the 2020 Guidelines for the Conduct of the CAM and JDR in Civil Cases was issued in view of the 2019 Amendments to the 1997 Rules of Civil Procedure under A.M. No. 19-10-20-SC, which took effect on May 1, 2020;

**WHEREAS**, in an *En Banc* Resolution dated December 9, 2020, the Court resolved to note the letter dated December 4, 2020 of Chancellor Adolfo S. Azcuna, Philippine Judicial Academy, transmitting Resolution No. 44-2020 dated December 3, 2020 of the PHILJA BOT, and resolved to approve the 2020 Guidelines for the Conduct of the CAM and JDR in Civil Cases;

**WHEREAS**, Section 2, Chapter 6, of the 2020 Guidelines for the Conduct of the CAM and JDR in Civil Cases states that the guidelines shall take effect following its publication in two (2) newspapers of general circulation;

**NOW, THEREFORE**, the Court Resolves to set the effectivity date of the 2020 Guidelines for the Conduct of the CAM and JDR in Civil Cases

9

February 9, 2021

on **March 1, 2021** following its publication in two (2) newspapers of general circulation.

Let copies of the 2020 Guidelines for the Conduct of the CAM and JDR in Civil Cases be published accordingly, and posted on the bulletin boards of the halls of justice of all first and second level courts, and all offices of the Integrated Bar of the Philippines, and in the official websites of the Supreme Court, Office of the Court Administrator and the Philippine Judicial Academy, as well as in all Philippine Mediation Center Units.”

February 9, 2021, Manila, Philippines.

*(Original signed)*

**DIOSDADO M. PERALTA**

Chief Justice

*(Original signed)*

**ESTELA M. PERLAS-BERNABE**

Senior Associate Justice

*(Original signed)*

**MARVIC M.V.F. LEONEN**

Associate Justice

*(Original signed)*

**ALFREDO BENJAMIN S. CAGUIOA**

Associate Justice

*(Original signed)*

**ALEXANDER G. GESMUNDO**

Associate Justice

*(Original signed)*

**RAMON PAUL L. HERNANDO**

Associate Justice

*(Original signed)*

**ROSMARI D. CARANDANG**

Associate Justice

*(Original signed)*

**AMY C. LAZARO-JAVIER**

Associate Justice

*(Original signed)*

**HENRI JEAN PAUL B. INTING**

Associate Justice

*(Original signed)*

**RODIL V. ZALAMEDA**

Associate Justice

*(Original signed)*

**MARIO V. LOPEZ**

Associate Justice

*(Original signed)*

**EDGARDO L. DELOS SANTOS**

Associate Justice

*(Original signed)*

**SAMUEL H. GAERLAN**


Associate Justice

*(Original signed)*  
**RICARDO R. ROSARIO**  
Associate Justice

*(Original signed)*  
**JHOSEP Y. LOPEZ**  
Associate Justice

(adv29)

Very truly yours,

  
**EDGAR O. ARICHETA**  
Clerk of Court



**2020 GUIDELINES FOR THE  
CONDUCT OF COURT-ANNEXED MEDIATION (CAM)  
AND JUDICIAL DISPUTE RESOLUTION (JDR)  
IN CIVIL CASES**

**Chapter 1. Coverage**

**Section 1. Mandatory coverage for CAM in Civil Cases.** – The following cases shall be referred to CAM:

- (a) All ordinary civil cases, including mediatable permissive or compulsory counterclaim or cross-claim as pleaded in the answer, complaint-in-intervention, and third (fourth, etc.)-party complaint, except those which cannot be the subject of a compromise under Article 2035 of the New Civil Code;
- (b) All special civil actions, except under Rules 63, 64, 65, 66, and 71 of the Rules of Court;
- (c) Special proceedings cases for settlement of estate where the dispute involves claims against the estate, or the distribution or partition of estate in intestate proceedings;
- (d) All those cases involving issues under the Family Code and other laws, in relation to support, custody, visitation, property relations, guardianship of minor children, and other issues which can be the subject of a compromise agreement;
- (e) Intellectual property cases;
- (f) Commercial or intra-corporate controversies;
- (g) Environmental cases, subject to the provisions in Section 3, Rule 3 of the Rules of Procedure for Environmental Cases (A.M. No. 09-6-8- SC); and
- (h) Civil cases covered by the Rule on Summary Procedure.

**Section 2. Referral to JDR in Civil Cases.** – The following cases may be referred to JDR:

- (a) The cases enumerated in Section 1, except environmental cases, may be referred to JDR upon failure of settlement or refusal to mediate in CAM only if the judge of the court to which the case was originally filed is convinced that settlement is still possible;
- (b) The following cases, brought on appeal from the exclusive and original jurisdiction granted to the first-level courts under the Judiciary Reorganization Act of 1980, may be referred to JDR in areas declared as JDR sites, if the RTC Judge is convinced that settlement is still possible;

- (1) all civil cases and settlement of estate, testate and intestate;
- (2) all cases of forcible entry and unlawful detainer;
- (3) all civil cases involving title to, or possession of, real property or an interest therein; and
- (4) *habeas corpus* cases decided by the first level court in the absence of any Regional Trial Court Judge.

**Section 3. Permissive Referral to CAM and JDR in Other Actions.** – In all other actions or proceedings where compromise is not prohibited by law and there is a significant likelihood of settlement, either or both of the parties may, by oral manifestation or written motion after the pre-trial/preliminary conference, or at any stage of the proceedings, request the court to refer their dispute to CAM and JDR, provided there are still factual issues to be resolved.

**Section 4. Cases not subject to compromise.** – The following cases shall not be referred to CAM and JDR:

- (a) civil cases which cannot be the subject of a compromise, to wit:
  - (1) The civil status of persons;
  - (2) The validity of a marriage or a legal separation;
  - (3) Any ground for legal separation;
  - (4) Future support;
  - (5) The jurisdiction of courts; and
  - (6) Future legitime.
- (b) *habeas corpus* petitions;
- (c) special proceedings cases for probate of a will; and
- (d) cases with pending applications for restraining orders or preliminary injunctions.

However, in cases covered under paragraphs (a) and (d) where the parties inform the court that they have agreed to undergo mediation on some aspects thereof, *e.g.*, custody of minor children, separation of property, or support *pendente lite*, the court shall refer them to mediation.

## **Chapter 2. Pre-Trial or Preliminary Conference Process**

### **A. Preliminary to CAM and JDR**

**Section 1. Notice of Pre-Trial and Notice of Preliminary Conference.** – After the last responsive pleading has been served and filed, the 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.

For cases covered by the Rule on Summary Procedure, the notice shall be issued within five (5) calendar days after the last answer is filed setting the preliminary conference not later than thirty (30) calendar days from the filing of the last responsive pleading.

The notice of pre-trial/preliminary conference shall include the dates set for (a) Pre-Trial/Preliminary Conference, (b) Court-Annexed Mediation, and (c) Judicial Dispute Resolution, if necessary.

The JDR proceedings may be conducted on the day/s civil cases are heard. For purposes of pre-setting, two (2) dates shall be allotted for JDR.

The PMC Unit (*PMCU*) shall be furnished with the Notice of Pre-Trial/Preliminary Conference to ensure the availability of accredited mediators on the scheduled date for CAM.

The court shall also furnish the Office of the Clerk of Court with a copy of the Notice of Pre-Trial/Preliminary Conference for the purpose of raffling the case to a prospective JDR Judge should CAM fail and the Judge is convinced that settlement is still possible.

- (a) In multi-sala courts, upon receipt of the Notice of Pre-Trial/Preliminary Conference, the Clerk of Court shall immediately include the case for raffle to another Judge.

After the raffle, the Clerk of Court shall inform both the Judge and the prospective JDR Judge of the outcome of such raffle.

- (b) In single sala courts, the Clerk of Court shall furnish the nearest court with the Notice of Pre-Trial/Preliminary Conference stating the scheduled date for JDR.

## **Section 2. Conduct of Pre-Trial/Preliminary Conference.**

In addition to the purposes enumerated in Section 2, Rule 18 on Pre-Trial under the 2019 Amendments to the 1997 Rules of Civil Procedure, or in Section 7 of the Rule on Summary Procedure, it shall be the duty of the Judge during Pre-Trial/Preliminary Conference to:

- (a) Orient the parties and counsels on the CAM process and inform them that appearance in the mediation proceedings before the PMCU is mandatory and the parties are expected to negotiate in good faith and exert earnest efforts towards settlement but that the decision whether or not to settle their dispute is completely voluntary and that no sanctions shall be imposed upon a party who declines to settle during mediation;

- (b) Inform the parties that mediation shall be conducted by the PMCU under the auspices of the court, and that failure to appear before the PMCU or any misconduct or misbehavior committed by any of the parties during the mediation proceedings, may be punished by contempt of court or cause the imposition of sanctions as provided in Section 5, Rule 18 of the 2019 Amendments to the 1997 Rules of Civil Procedure, or in Section 7 of the Rule on Summary Procedure, or under Sections 4 and 5, Part D, Chapter 2 of these Guidelines;
- (c) Inform the parties that, should there be no settlement during CAM, the case may be referred to another court for the conduct of JDR if the Judge is convinced that settlement is still possible; and
- (d) Inform the parties that the JDR Judge may conduct a non-binding early neutral evaluation on the merits of their respective cases.

At any time before the scheduled date for JDR, the parties shall have the option to file a joint written manifestation requesting the Judge to conduct JDR and not refer the case to another Judge for such purpose, and to proceed to trial if JDR fails.

**Section 3. Pre-Trial Order and Referral to CAM.** – After pre-trial/preliminary conference and the issues have been joined, the court shall issue the Pre-Trial/ Preliminary Conference Order referring the parties to mandatory Court-Annexed Mediation unless the case is submitted for judgment on the pleadings or summary judgment, *motu proprio* or upon motion, 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 may also render a separate judgment disposing of a claim after the pre-trial/preliminary conference or at any stage, when more than one claim for relief is presented in an action and there is already a determination of the issues material to that particular claim and all counterclaims arising out of the transaction or occurrence which is the subject matter of the claim.

The Pre-Trial/Preliminary Conference Order shall direct the parties to immediately proceed and personally appear at the PMCU for mediation proceedings. The court shall furnish the PMCU with a copy of the Pre-Trial/Preliminary Conference Order to aid the mediators in the conduct of mediation. The mediators shall ensure the confidentiality of documents made available to them by the court.

The court shall also furnish the Office of the Clerk of Court and the prospective JDR Judge with a copy of the Pre-Trial/Preliminary Conference Order.



## **B. CAM in Pre-Trial/Preliminary Conference**

**Section 1. Receipt of Notice of Pre-Trial/Preliminary Conference.** – Upon receipt of the Notice of Pre-Trial/Preliminary Conference, the PMCU staff shall immediately record in the logbook the scheduled date for CAM and ensure the availability of accredited mediators should the case be eventually referred for CAM.

**Section 2. Initial Appearance of Parties and Counsels.** – On the date set for CAM, the parties and their counsels shall appear at the PMCU for mediation proceedings. The PMCU staff shall require the parties to present proof that the mediation fees have been paid.

**Section 3. Selection of Mediator.** – During the initial appearance of parties, the PMCU staff shall assist them in selecting a mutually acceptable mediator from among the roster of mediators in the PMCU. Copies of the resumes of the mediators shall be made available to assist the parties in selecting their mediator.

**Section 4. Assignment of Mediator.** – If the parties are unable to jointly select a common mediator, the PMCU staff shall, in the presence of the parties, choose the mediator who shall mediate the dispute by lot from among the mediators present at the unit.

If there are no mediators available in the unit, the mediator shall be chosen by lot from the roster of mediators by the PMCU staff in the presence of the parties.

**Section 5. Role of Mediator.** – The mediator shall be considered an officer of the court while performing his/her duties as such or in connection therewith.

### **Section 6. Conduct of Mediation.** –

- (a) Upon his/her selection or assignment, the mediator shall immediately start the mediation process unless the parties and the mediator agree to reset the initial mediation conference, which shall not be later than five (5) calendar days from the original date. The initial mediation conference may, likewise, be reset when the selected mediator is not present in the PMCU.
- (b) At the initial conference, the mediator shall explain to both parties the mediation process, stating the benefits of an early settlement of their dispute based on their mutual interests, instead of the legal positions.
- (c) With the consent of both parties, the mediator may hold separate caucuses with each party to determine their respective real interests in the dispute.

- d) Thereafter, a joint conference may be held to consider various options that may resolve the dispute through reciprocal concessions and on terms that are mutually beneficial to both the parties.

**Section 7. Disclosure and Inhibition.** – If, at any time, the mediator discovers any fact or circumstance that may affect his/her impartiality, he/she shall disclose the same to the parties and inhibit himself/herself unless the parties decide in writing to retain him/her, and he/she so agrees.

Should either party object to the mediator's assignment on the ground of relationship, or fiduciary or pecuniary interest or any similar ground, the mediator shall decline to accept the appointment and the parties shall be allowed to select another mediator in accordance with the same procedure by which the original mediator was selected. The mediator's acceptance of a request for him/her to withdraw shall not imply the truth or validity of the reason for which his/her recusal had been sought.

**Section 8. Duration of CAM Proceedings.** – The mediator shall have a period of not exceeding thirty (30) calendar days to complete the mediation process without further extension. Such period shall be computed from the date of the order referring the case to CAM.

**Section 9. Suspension of Periods.** – The period during which the case is undergoing Court-Annexed Mediation shall be excluded from the mandatory period for trial and rendition of judgment.

**Section 10. Successful Settlement in CAM.** – If settlement is reached, the parties shall draft the compromise agreement with the assistance of their respective counsels. The mediator shall make available samples/templates of agreements to assist the parties in preparing their agreement.

The PMCU shall submit to the referring Judge a Mediator's Report on the result of the mediation proceedings, together with a copy of the compromise agreement and its attachments, if any, within the period provided for in Section 12, Part B of this Chapter.

Upon receipt of the Mediator's Report, the Judge shall evaluate the Compromise Agreement attached thereto, if any, and after his/her evaluation, he/she may proceed to:

- (a) approve the agreement and render judgment based thereon;
- (b) disapprove the agreement for being contrary to law, morals, good customs, public order, or public policy, or upon a finding, based on a verified motion by any party, and after hearing, that the mediation proceeding, or the preparation of the settlement agreement had been attended by fraud, mistake, violence or intimidation; or

- (c) clarify the intentions of the parties if the court determines that the agreement or any portion thereof is vague, defective, or unenforceable, and direct them to amend the same accordingly.

In the situation described in paragraphs (b) and (c) above, the court may, in lieu of disapproval or amendment of the agreement, determine whether to refer the case to JDR or proceed to trial.

**Section 11. Non-settlement in CAM.** – If the parties do not settle during CAM, the PMCU staff shall, within the period provided for under the succeeding section, submit a Mediator’s Report to the court specifying the result of the mediation.

There is failure in CAM in the following instances:

- (a) When the parties mediate in good faith but no agreement was reached by them despite the efforts exerted by the assigned mediator; or
- (b) When either one or both parties fail to appear after they have started to negotiate in a previous mediation conference wherein the mediator exerted efforts to assist the parties in settling their dispute.

**Section 12. Submission of Mediator’s Report.** – The PMCU staff and the assigned mediator shall ensure the timely submission of the Mediator’s Report to the referring judge.

- (a) In case of settlement, after the signing of the compromise agreement;
- (b) In case any of the parties refuse to mediate, on the date of such refusal;
- (c) In case of refusal to settle prior to the end of the mediation period, after the parties indicate their desire to terminate the mediation proceedings; or
- (d) In case the parties fail to settle within the mediation period, after the lapse of the said period.

There is a refusal to mediate when one or both parties:

- (a) fail to appear in at least two successive mediation sessions;
- (b) refuse or fail to pay mediation fees; or,
- (c) refuse to participate in the mediation proceedings.

**Section 13. Judgments in CAM.** – Judgments approving the compromise agreements of the parties shall contain a statement that the same were rendered through CAM in order to distinguish them from Judgments based on compromise agreements entered into during JDR. Copies of said Judgments shall be submitted to the PMCU for documentation purposes.

## **C. JDR in Pre-Trial/Preliminary Conference**

**Section 1. Mediator's Report from the PMC Unit.** – Upon receipt of the Mediator's Report stating that no settlement was reached in CAM, the referring judge shall determine, in the hearing set for such purpose, if settlement is still possible and refer the case to the JDR Judge if he/she is thus convinced.

In case of partial settlement, the Judge shall refer the unsettled part of the dispute to the JDR Judge, if convinced that settlement is still possible.

### **Section 2. How referred. –**

- (a) In multiple sala courts, the Judge shall refer the case to the JDR Judge previously determined through raffle by the Office of the Clerk of Court.

Notwithstanding the foregoing, at any time before the scheduled date for JDR, the parties may file a joint written manifestation requesting the Judge to proceed with the conduct of JDR despite confidential information that may be divulged during the JDR proceedings subject to the condition that if JDR does not succeed, the Judge shall continue with the case.

- (b) In first-level single sala courts, the JDR proceedings shall be conducted by the judge of the nearest first level court as determined by the concerned Executive Judge. However, if the nearest court is a second-level court with multiple branches, the case may be referred to the said court, regardless of the level of the latter court.

In single sala RTC courts, the JDR proceedings shall be conducted by the judge of the nearest court as determined by the concerned Executive Judge, regardless of the level of the latter court.

The JDR proceedings shall be conducted at the station where the case was originally filed.

Notwithstanding the foregoing, at any time before the scheduled date for JDR, the parties may file a joint written manifestation requesting the Judge to proceed with the conduct of JDR despite confidential information that may be divulged during the JDR proceedings subject to the condition that if JDR does not succeed, the Judge shall continue with the case.

- (c) In Family Courts and Special Commercial Courts

- (1) Where the principal case is filed in a multi-sala court of which only one branch has been designated as a Family Court or Special Commercial Court, the JDR proceedings shall be conducted by the JDR Judge previously determined through

raffle by the Office of the Clerk of Court.

Notwithstanding the foregoing, at any time before the scheduled date for JDR, the parties may file a joint written manifestation requesting the Family Court or Special Commercial Court to proceed with the conduct of JDR despite confidential information that may be divulged during the JDR proceedings subject to the condition that if JDR does not succeed, the said Family Court or Special Commercial Court shall continue with the case.

- (2) If there are two or more Family Courts or Special Commercial Courts, the case shall be referred for JDR to the Judge previously determined through raffle by the Office of the Clerk of Court.

Notwithstanding the foregoing, at any time before the scheduled date for JDR, the parties may file a joint written manifestation requesting the Family Court or Special Commercial Court to proceed with the conduct of JDR despite confidential information that may be divulged during the JDR proceedings subject to the condition that if JDR does not succeed, the said Family Court or Special Commercial Court shall continue with the case.

When there is no designated special court in multi-sala courts, family court cases and commercial cases shall be treated as regular cases for purposes of referral to another Judge for JDR.

**Section 3. Duration** – The JDR Judge shall conduct the JDR proceedings immediately upon receipt of the referral order and terminate the proceedings within a non-extendible period of fifteen (15) calendar days from receipt of the said referral order. If the parties fail to settle during the first JDR session, the JDR Judge shall set the case for another JDR session, provided that the fifteen (15)-calendar day period has not lapsed.

If the parties file a joint written manifestation for the Judge to conduct JDR, he/she shall immediately do so either from receipt of the notice of failure of CAM or the said joint manifestation, which process shall not exceed a period of fifteen (15) calendar days from receipt of such notice or manifestation.

In all instances, the case record shall remain with the Judge but in multi-sala courts, only the referral order, including a copy of the Complaint, Answer, Pre-Trial Order, and the Mediator's Report, shall be forwarded to the JDR Judge.

**Section 4. Who may conduct.** – Unless otherwise directed by the Supreme Court, only those judges who have undergone skills-based training in JDR procedures and stationed in areas declared as JDR sites, are authorized to conduct JDR proceedings in accordance with these Guidelines.

**Section 5. How conducted.** – If the parties do not settle their dispute during CAM, the parties and their respective counsels shall appear on the scheduled date before the JDR Judge, who shall then conduct the JDR process as mediator, conciliator, and/or neutral evaluator to actively assist and facilitate negotiations among the parties for them to settle their dispute.

As mediator and conciliator, the JDR Judge facilitates the settlement discussions between the parties and tries to reconcile their differences.

As a neutral evaluator, the JDR Judge assesses the relative strengths and weaknesses of each party's case and makes a non-binding and impartial evaluation of the chances of each party's success in the case so that he/she may guide the parties to a fair and mutually acceptable settlement of their dispute.

**Section 6. Non-suspension of period.** – The period during which the case is undergoing JDR shall not be excluded from the regular and mandatory periods for trial and rendition of judgment in ordinary cases and in cases covered by the Rule on Summary Procedure.

**Section 7. Settlement in JDR.** – If the case is settled in JDR, the JDR Judge shall accomplish the JDR Report and return the case to the Judge for appropriate action.

- (a) If full settlement is reached, the parties, who may be assisted by their respective counsels, shall draft the compromise agreement, which shall be submitted to the Judge for judgment upon compromise, enforceable by execution.
- (b) Where full compliance with the terms of the compromise agreement is forthwith made, the parties, instead of submitting a compromise agreement, shall submit a satisfaction of claims or a mutual withdrawal of the parties' respective claims and counterclaims on the basis of which, the Judge shall issue an order declaring the case terminated.
- (c) If partial settlement is reached, the parties shall, with the assistance of counsels, submit the terms thereof for the approval of the Judge and rendition of a judgment upon partial compromise, which may be enforced by execution without waiting for resolution of the unsettled part. In relation to the unsettled part of the dispute, the case shall proceed to trial until judgment.

To ensure the equitable distribution of cases, the JDR Judge shall be entitled to a credit for every successfully settled case in JDR, hence, shall be exempt from receiving a newly-filed case during raffle equivalent to the number of cases settled during JDR. This is regardless of any action which the Judge to whom the case was originally filed may take on the settlement reached by the parties before the JDR Judge.

**Section 8. Non-settlement in JDR.** – If the case is not settled in JDR, the JDR Judge shall accomplish the JDR Report and return the case to the Judge for appropriate action.

**Section 9. Judgments in JDR.** – Judgments approving the compromise agreements of the parties, through the efforts of the judge as a mediator, conciliator, or neutral evaluator, shall contain a statement that the Judgment was achieved through JDR in order to distinguish it from Judgments approving compromise agreements secured through CAM.

**Section 10. Non-Applicability to Environmental cases and Small Claims Cases.** –

- (a) In environmental cases, no JDR shall be conducted. The conduct of mediation proceeding shall be governed by Sections 3, 6 and 10, Rule 3 of A.M. No. 09-6-8-C on the Rules of Procedure for Environmental Cases.
- (b) In small claims cases, Section 23 of the Revised Rules of Procedure for Small Claims Cases, as amended, shall apply.

## **D. Common Provisions to CAM and JDR**

### **1. Appearance of Parties**

**Section 1. Appearance of individual parties.** – The parties and their respective counsels shall personally appear before the mediator or the JDR Judge on the duly-designated date for CAM or JDR.

An individual party may be represented only for a valid cause, such as acts of God, *force majeure*, or duly substantiated physical inability. The representative shall be fully authorized, through a Special Power of Attorney, to appear and to offer, negotiate, accept, decide, and enter into a compromise agreement, without need of further approval by or notification to the authorizing parties.

**Section 2. Appearance of corporations, partnerships, or other juridical entities.** – Corporations, partnerships, or other juridical entities shall be represented by a proper officer or person, fully authorized by a Board Resolution or Secretary's Certificate to offer, negotiate, accept, decide, and enter into a compromise agreement, without need of further approval by or notification to the authorizing party.

**Section 3. Effect of failure to bring required authorization.** –

- (a) In case of failure of the representative during CAM to bring the required authorization or, having full authority, refuses to exercise the same or claims that further approval from their principal is needed, the Mediator may reset the proceedings within the thirty (30)-calendar day period referred to in Section 8, Part B of this

Chapter.

- (b) In case of failure of the representative during JDR to bring the required authorization without valid cause or having full authority, refuses to exercise the same or claims that further approval from their principal is needed, the said principal shall be deemed absent and the JDR proceedings shall be terminated. The JDR Judge shall transmit the JDR Report to the referring Judge indicating the outcome of the JDR and any appropriate recommendation.

## **2. Sanctions**

**Section 4. Imposition of Sanctions.** – In addition to paragraph (b) of the preceding Section, the Judge, upon recommendation of the mediator or JDR Judge, or upon motion of the interested party, or *motu proprio*, may impose sanctions upon the following:

- (a) Any party who fails to appear before the mediator or JDR Judge despite due notice; or
- (b) Any person who engages in contemptuous conduct during mediation or JDR proceedings.

**Section 5. Imposable sanctions.** – The trial court shall impose the following sanctions:

- (a) dismissal of the case, when there is failure of the plaintiff and counsel to appear without valid cause when so required; or
- (b) *ex parte* presentation of plaintiff's evidence and dismissal of defendant's counterclaim when there is failure of the defendant and counsel to appear without valid cause when so required

The court may, likewise, impose other sanctions, including but not limited to:

- (a) censure;
- (b) reprimand;
- (c) contempt; or
- (d) reimbursement by the absent party of the costs of the appearing party, including attorney's fees for that day up to treble such costs, payable on or before the date of the re-scheduled setting.

**Section 6. Lifting or setting aside of sanction.** – Upon motion of the sanctioned party, the trial court, in the exercise of its sound discretion, may lift, set aside, or modify the sanctions imposed.

## **3. Confidentiality**

**Section 7. Confidentiality.** – Any and all matters discussed, or communications made, including requests for mediation, and documents



presented during CAM or JDR proceedings, shall be privileged and confidential.

The mediator or JDR Judge shall not, in any manner, record the proceedings. No transcript or minutes of mediation proceedings shall be taken. If personal notes are taken for guidance, the notes shall be destroyed. Should such records exist, the same shall also be privileged and confidential.

All privileged and confidential information obtained in CAM or JDR shall be inadmissible as evidence for any purpose in any other proceedings. However, evidence or information that is otherwise admissible does not become inadmissible solely by reason of its use in CAM or JDR.

Further, the JDR Judge shall not pass any information obtained in the course of conciliation and early neutral evaluation to any other Judge or to any other person. This prohibition shall apply to all court personnel, or to any other person present during such proceeding, or who obtained any information on the case. All JDR conferences shall be conducted in private.

#### **4. Role of Lawyers**

**Section 8. Role of Lawyers.** – Lawyers who attend mediation proceedings as advisers and consultants to their clients, shall drop their combative role in the adjudicative process and give up their dominant role in judicial trials. They must accept a less directive role in order to allow the parties more opportunities to craft their own agreement. They shall perform the following functions:

- (a) Notify the party he/she represents of the schedule of CAM and JDR as mandated under Section 3, Rule 18 of the 2019 Amendments to the 1997 Rules of Civil Procedure and ensure their appearance;
- (b) Explain the mediation process to their clients, help them understand its benefits, and encourage them to assume greater personal responsibility in making decisions to resolve the dispute. They shall also discuss with their clients the following:
  - i. The substantive issues involved in the dispute;
  - ii. Prioritization of resolution in terms of importance;
  - iii. Understanding the position of the other side and the underlying fears, concerns, and needs underneath that position;
  - iv. Need for more information or facts to be gathered or exchanged with the other part for informed decision-making;
  - v. Possible bargaining options, but stressing the need to be open-minded about other possibilities; and
  - vi. The best, worst, and most likely alternatives to a negotiated agreement.

- (c) Assist in preparing a compromise agreement that is not contrary to law, morals, good customs, public order, or public policy, emphasizing voluntary compliance and consequences of breach thereof.
- (d) Whenever applicable, assist in the preparation of a manifestation of satisfaction of claims and mutual withdrawal of complaint and counterclaim as the basis for the court to issue an order of dismissal.

### **Chapter 3. JDR on Appeal**

**Section 1. Coverage.** – JDRA shall cover those enumerated under Section 2(b) of Chapter 1 of these Guidelines, except those cases brought on appeal involving purely legal issues.

#### **Section 2. Issuance of Order –**

- (a) Within fifteen (15) calendar days from receipt of the memorandum on appeal and without prejudice to the filing of an appellee’s brief, the RTC Judge shall determine if settlement is still possible.
- (b) Upon determination by the RTC Judge that settlement is still possible, and with the written conformity of the parties through an Agreement to Mediate, the RTC Judge shall issue an Order setting the case for JDRA.

The parties shall indicate in the Agreement to Mediate that, despite confidential information that may be divulged during the JDR proceedings, the RTC Judge having appellate jurisdiction shall proceed to render judgment on appeal if JDR fails.

- (c) The Order shall require the parties to attend in person or, in the case of corporate litigants, through a duly-authorized representative, as required under Sections 1 and 2, Part D, Chapter 2 of these Guidelines.
- (d) If the RTC Judge should determine that settlement is not possible, he/she shall proceed to render judgment on appeal.

**Section 3. Conduct of JDRA.** – On the date set in the order, the RTC Judge shall exert all efforts to resolve the dispute through JDRA but shall not conduct neutral evaluation. Any settlement shall be in writing, signed by the parties and approved by the RTC Judge.

**Section 4. Duration of JDRA proceedings.** – The RTC Judge shall have a period of not exceeding fifteen (15) calendar days to complete the JDR proceedings. Such period shall be computed from the date when the parties first appeared for the initial conference as stated in the order to appear. An extended period of another fifteen (15) calendar days may be granted by the

court upon joint written motion filed by both parties on the ground that settlement is likely to be concluded. The Court shall make available samples/templates of agreements to assist the parties in preparing their agreement.

**Section 5. Settlement in JDRA.** – If full settlement is reached on appeal, the parties, who may be assisted by their respective counsels, shall draft the compromise agreement, which shall be submitted to the RTC Judge for judgment upon compromise.

Where compliance with the terms of the compromise is forthwith made, the parties shall instead submit a mutual satisfaction of claims and counterclaims or a mutual withdrawal of the appeal.

If partial settlement is reached, the parties shall, with the assistance of their respective counsels, submit the terms thereof for the court's verification and approval, and rendition of a judgment upon partial compromise. The court shall proceed to render a decision as to the unsettled portion within the prescribed period.

**Section 6. Non-settlement in JDRA.** – If JDRA fails, the RTC Judge shall issue an order declaring a failure of JDR and render a decision within the prescribed period.

**Section 7. Action to be taken when the First Level Court dismisses the case for lack of jurisdiction. - Referral to CAM** – In cases where the RTC Judge affirms on appeal the order of dismissal for lack of jurisdiction, and the RTC Judge finds the case within his/her jurisdiction, instead of trying the case on the merits as provided for under the first paragraph of Section 8, Rule 40 of the Rules of Court, shall, after the issues have been joined, issue an Order referring the parties to CAM, if the case was not previously referred to CAM, subject to the payment of the appropriate docket and mediation fees. If CAM fails, the court shall proceed in accordance with Part C, Chapter 2 of these Guidelines.

For cases falling under the second paragraph of Sec. 8, Rule 40 of the Rules of Court, the RTC judge shall proceed to conduct JDR in accordance with Part C, Chapter 2 of these Guidelines.

**Section 8. Judgments in JDRA.** – Judgments approving the compromise agreements of the parties, through the efforts of the RTC Judge as a mediator or conciliator, shall state that the Judgments were achieved through JDRA.

#### **Chapter 4. Cases with Applications for Provisional Remedies and/or Other Reliefs**

**Section 1. Cases with Applications for Provisional Remedies** – In cases with applications for the issuance of a temporary restraining order, writ of preliminary injunction, or other provisional remedies, including cases when

the Judge opts to conduct hearing on a prayer for the issuance of writ of replevin or writ of attachment, such applications shall first be resolved by the Judge before referral to CAM.

**Section 2. Cases with Applications for Other Reliefs.** – All other incidents or motions filed before the Pre-Trial/Preliminary Conference shall, likewise, be resolved by the Judge before referral to CAM.

In these instances, if CAM fails, the case shall be referred to another Judge for JDR if the Judge is convinced that settlement is still possible. After the termination of JDR proceedings, the case shall be returned to the referring Judge for appropriate action.

## Chapter 5. Final Provisions

**Section 1. Repealing Clause.** – All existing guidelines on CAM and JDR inconsistent with these new Guidelines are deemed amended or repealed.

**Section 2. Posting and Circulation** – These new Guidelines on CAM and JDR shall be posted on the bulletin boards in the halls of justice of all first- and second-level courts and all offices of the Integrated Bar of the Philippines, and in the websites of the Supreme Court, OCA, and PHILJA.

The PMCO shall ensure that these new guidelines are circulated in all PMC Units nationwide.

**Section 3. Effectivity Clause** – These Guidelines shall take effect on March 1, 2021, following its publication in two (2) newspapers of general circulation.