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**FORMS ON CIVIL PROCEDURE**

FORM NO. 3-9-CV (Rule 3, Section 9: Order for Inclusion of Necessary Party)

**O R D E R**

Pursuant to Rule 3, Section 9 of the Rules of Court, the court finds the reason for the omission of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a necessary party, to be unmeritorious.[[1]](#footnote-1)

ACCORDINGLY, the court DIRECTS the inclusion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, within fifteen (15) calendar days[[2]](#footnote-2) from notice, in order that complete relief may be accorded to the parties, or for a complete determination or settlement of the claim subject of the action.

The failure to comply with this Order, without justifiable cause, shall be deemed a waiver of the claim against such party.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 3, Sec. 8. Necessary party. -** A necessary party is one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action.

**Rule 3, Sec. 9. Non-joinder of necessary parties to be pleaded**. - Whenever in any pleading in which a claim is asserted a necessary party is not joined, the pleader shall set forth his name, if known, and shall state why he is omitted. Should the court find the reason for the omission unmeritorious, it may order the inclusion of the omitted necessary party if jurisdiction over his person may be obtained.

The failure to comply with the order for his inclusion, without justifiable cause, shall be deemed a waiver of the claim against such party.

The non-inclusion of a necessary party does not prevent the court from proceeding in the action, and the judgment rendered therein shall be without prejudice to the rights of such necessary party.

**Rule 10, Sec. 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, and in the most expeditious and inexpensive manner.

**Rule 10, Sec. 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) days after it is served.

FORM NO. 3-16-CV (Rule 3, Section 16: Order for Substitution of Deceased Party)

**O R D E R**

Pursuant to Rule 3, Section 16 of the Rules of Court, upon information that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the deceased), the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (party designation) has died and the claim is not thereby extinguished, the court DIRECTS:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of the legal representative/s or heir/s) to manifest their appearance and their consent to be substituted for the deceased party, within thirty (30) calendar days[[3]](#footnote-3) from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 3, Sec. 16. Death of party; duty of counsel. -**  Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) calendar days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) calendar days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

FORM NO. 3-16a-CV (Rule 3, Section 16a: Order in Case of Non-Substitution of Deceased Party)

**O R D E R**

Pursuant to Rule 3, Section 16 of the Rules of Court, and considering the

failure of the counsel for the deceased party to name a legal representative/s,

failure of the legal representative named by the counsel for the deceased party to appear,

within the period specified in the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court DIRECTS the opposing party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, within ninety (90) calendar days[[4]](#footnote-4) from receipt of this Order, to procure the appointment of an executor or administrator for the estate of the deceased, who is ordered to immediately appear for and on behalf of the deceased.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 3, Sec. 16. Death of party; duty of counsel. -**  Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with his duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased.

FORM NO. 3-17-CV (Rule 3, Section 17: Order for Substitution in Case of Death or Separation from the Service of a Public Officer)

**O R D E R**

Pursuant to Rule 3, Section 17 of the Rules of Court,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the successor public officer, manifested that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of agency/office) will no longer pursue the action.

ACCORDINGLY, the court DISMISSES the case with prejudice,

after notice and hearing, and considering that the

death

separation from the service

of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deceased or separated public officer), and the successor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of successor) has signified the intention to adopt and continue the action of the predecessor.

FURTHER, the Court DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of successor) to be substituted for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deceased or separated public officer).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 3, Sec. 17. Death or separation of a party who is a public officer. -**  When a public officer is a party in an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if, within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing or maintaining it and that the successor adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application.

FORM NO. 3-19-CV (Rule 3, Section 19: Order for Substitution or Joinder in Transfer of Interest)

**O R D E R**

Pursuant to Rule 3, Section 19 of the Rules of Court, and acting on the Motion for  substitution joinder due to the transfer of interest \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify details), the court

GRANTS the Motion and directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of transferee) to be

substituted in this action in lieu of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of original party).

joined with the original party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of transferor).

DENIES the Motion \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ because (state reason).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 3, Sec. 19. Transfer of interest. -**  In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

FORM NO. 6-11-CV (Rule 6, Section 11: Resolution on the Motion for Leave to File Third [Fourth, etc.] Party Complaint)

**R E S O L U T I O N**

Pursuant to Rule 6, Section 11 of the Rules of Court, and acting on the Motion for Leave to file \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -party complaint, the court:

GRANTS the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -party defendant for leave to file a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - Party Complaint against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -party defendant) for

contribution

indemnity

subrogation

any other relief \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground)

ACCORDINGLY, the Court ADMITS the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -party complaint attached to the Motion.

Let summons and the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -Party Complaint and its attachments be served on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -party defendant, who is given thirty (30) calendar days[[5]](#footnote-5) to file a responsive pleading from such service.

DENIES the Motion because:

it raises matters extraneous to the issue in the principal case.

it would, in effect, introduce a new and separate controversy into the action.

ACCORDINGLY, the court DENIES the Motion.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 6, Sec. 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 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.

FORM NO. 6-11a-CV (Rule 6, Section 11: Order Dismissing \_\_\_\_\_\_\_-Party Complaint for Failure to Locate \_\_\_\_\_\_\_-Party Defendant)

**O R D E R**

Pursuant to Rule 6, Section 11 of the Rules of Court, and considering that the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -Party Defendant could not be located within thirty (30) calendar days from the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as per the Sheriff/Process Server/ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -Plaintiff/s Return dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -Party Complaint is DISMISSED without prejudice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 6, Sec. 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 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.

FORM NO. 6-12-CV (Rule 6, Section 12: Order to Implead New Parties for Complete Relief in Counterclaim or Cross-Claim)

**O R D E R**

Pursuant to Rule 6, Section 12 of the Rules of Court, and considering that the presence of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of new party/ies) is/are required for the grant of complete relief in the determination of the

counterclaim, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[[6]](#footnote-6)

cross-claim, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[[7]](#footnote-7)

the court DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) to amend the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the title of pleading) to implead \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of additional party) as defendant/s, within fifteen (15) calendar days[[8]](#footnote-8) from receipt hereof.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 6, Sec. 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.

FORM NO. 7-5-CV (Rule 7, Section 5: Order of Dismissal for Failure to Comply with Certification Against Forum Shopping)

**O R D E R**

Pursuant to Rule 7, Section 5 of the Rules of Court,  on motion filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant)  on the court’s own initiative,

the case is DISMISSED without prejudice for:

failure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) to file a Certification against Forum Shopping.

failure of the Certification against Forum Shopping to comply with the prescribed averments.

lack of authority of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of signatory) to sign the Certification against Forum Shopping.

non-compliance with the 2004 Rules on Notarial Practice in that no competent proof of identification of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of signatory) was presented to the Notary Public, after the plaintiff was given a chance to cure the defect, but still failed to do so.

the case is DISMISSED with prejudice for:

submission of a false Certification Against Forum Shopping.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of counsel) are directed to show cause why they should not be cited in indirect contempt for the foregoing act, within five (5) calendar days[[9]](#footnote-9) from receipt of this Order.

non-compliance with any of the undertakings in the Certification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of counsel) are directed to show cause why they should not be cited in indirect contempt for the foregoing act, within five (5) calendar days[[10]](#footnote-10) from receipt of this Order.

willful and deliberate forum shopping committed as follows \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of counsel) are cited for direct contempt of court for the foregoing act, and are meted the penalty of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state sanction/s).

The foregoing shall be without prejudice to corresponding administrative and criminal actions. Let a copy of this Order be furnished the Integrated Bar of the Philippines Commission on Bar Discipline for appropriate action.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 7, Sec. 5. Certification against forum shopping**. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) calendar days therefrom to the court wherein his 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 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.

2004 Rules on Notarial Practice

**Sec. 12. Competent Evidence of Identity**. - The phrase "competent evidence of identity" refers to the identification of an individual based on: (a) at· least one current identification document issued by an official agency bearing the photograph and signature of the individual; or (b) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual.

FORM NO. 9-3-CV (Rule 9, Section 3: Resolution on Motion to Declare in Default)

**R E S O L U T I O N**

Pursuant to Rule 9, Section 3 of the Rules of Court, and acting on the Motion to Declare Defendant in Default, the Court, considering the defendant’s failure to file an Answer within the time allowed,

GRANTS the Motion and declares \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) in default.

The case is submitted for judgment as the Complaint may warrant.

The plaintiff is directed to present evidence *ex parte*

before the Presiding Judge on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

before the Branch Clerk of Court, a member of the Bar, who is commissioned to receive the evidence of plaintiff on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and to submit a Report thereon, within thirty (30) calendar days[[11]](#footnote-11) from termination of the hearing.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 9, Sec. 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 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 notice of subsequent proceedings but not to 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 failure to answer was due to fraud, accident, mistake or excusable negligence and that he 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 not 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 prosecuting attorney 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.

**Rule 30, Sec. 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 report and the transcripts within ten (10) days from termination of the hearing.

FORM NO. 9-3a-CV (Rule 9, Section 3: Judgment by Default/Dismissal)

**D E C I S I O N**

This action is for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (nature of action/case).

For failure to file an Answer, and upon Motion of plaintiff, defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was declared in default in the Resolution dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to Rule 9, Section 3 of the Rules of Court.

The Complaint contains the following allegations: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state material allegations of complaint).

The Court finds that the allegations in the Complaint and its attachments are sufficient to establish a cause of action against defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

ACCORDINGLY, judgment by default is rendered in favor of plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and against defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ordering the following: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Court REQUIRES the plaintiff to submit  evidence in support of the Complaint  additional evidence.

The Court DISMISSES the Complaint because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 9, Sec. 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 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 notice of subsequent proceedings but not to 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 failure to answer was due to fraud, accident, mistake or excusable negligence and that he 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 not 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 prosecuting attorney 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.

FORM NO. 9-3b-CV (Rule 9, Section 3: Judgment by Default on the Basis of the Plaintiff’s Evidence Ex Parte)

**D E C I S I O N**

This action is for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (nature of action/case).

For failure to file an Answer, and upon Motion of the plaintiff, the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was declared in default by the Resolution dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the plaintiff was required to present evidence *ex parte*.

The plaintiff formally offered in evidence the testimony of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name witness/es) and the following exhibits: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state description of exhibits).

The evidence adduced established that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (discussion of evidence proving the cause/s of action and the allegations).

The Court finds that the plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was able to establish the cause/s of action by preponderance of evidence against the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, justifying the grant of the relief prayed for in the Complaint, pursuant to Rule 9, Section 3 of the Rules of Court.

ACCORDINGLY, judgment by default is rendered in favor of the plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and against the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ordering the following: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Court DISMISSES the Complaint for failure of the plaintiff to prove its case.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 9, Sec. 3. Default; [d]eclaration 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.

1. Effect of order of default. – A party in default shall be entitled to notice[s] of subsequent proceedings but shall not to take part in the trial.
2. 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.
3. 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.
4. 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.
5. Where no defaults allowed. – If the defending party in 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.

FORM NO. 9-3c-CV (Rule 9, Section 3[b]: Relief from Order of Default)

**R E S O L U T I O N**

Pursuant to Rule 9, Section 3 (b) of the Rules of Court, and acting on the Motion to Set Aside the Order of Default filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of defendant), the court:

GRANTS the Motion, sets aside the Order of default, and admits the Answer, the defendant having properly shown that the failure to answer was due to

fraud \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details)

accident \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details)

mistake \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details)

excusable negligence \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details)

as shown in the Affidavit of Merit, and it appearing from the Answer that the defendant has a meritorious defense.

The Court likewise imposes the following conditions in the interest of justice: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state other terms and conditions).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

The case is submitted for judgment as the Complaint may warrant.

The plaintiff is directed to present evidence *ex parte*

before the Presiding Judge on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

before the Branch Clerk of Court, a member of the Bar, who is commissioned to receive the evidence of plaintiff on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and to submit a Report thereon, within thirty (30) calendar days[[12]](#footnote-12) from termination of the hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 9, Sec. 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 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 notice of subsequent proceedings but not to 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 failure to answer was due to fraud, accident, mistake or excusable negligence and that he 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 not 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 prosecuting attorney 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.

The Court may impose other conditions, including the following: (1) a waiver on the part of the defendant of the right to cross-examine the witness/es who have been presented; (2) limit the trial dates; (3) presentation of his/her evidence on specified dates which shall be intransferrable in character; (4) a waiver of objections to evidence previously offered or admitted; (5) conduct Pre-Trial; (6) payment of docket fees for permissive counter-claim/s pleaded in the Answer; or (7) any other condition/s that the Court may deem proper.

FORM NO. 10-2-CV (Rule 10, Section 2: Order for Amendment as a Matter of Right)

**O R D E R**

Pursuant to Rule 10, Section 2 of the Rules of Court, the court confirms the Notice to Amend, as a matter of right, there being no responsive pleading filed as yet.

The court ADMITS the Amended  Complaint  Answer attached to the Notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (defendant) is given thirty (30) calendar days from receipt of the Amended Complaint to file a responsive pleading.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (plaintiff/defendant) is given ten (10) calendar days from receipt of the Amended Answer to file a responsive pleading.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 10, Section 2. Amendments as a matter of right**. – A party may amend his [or her] 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)

**Rule 11, Sec. 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.

**Rule 11, Sec. 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.

FORM NO. 10-3-CV (Rule 10, Section 3: Resolution on Motion to Amend with Leave of Court)

**R E S O L U T I O N**

Pursuant to Rule 10, Section 3 of the Rules of Court, and acting on the Motion for Leave to File Amended  Complaint  Answer, the court after notice and an opportunity to be heard:

GRANTS the Motion for leave to amend, there being no showing that:  there is intent to delay the proceedings;  the amended pleading seeks to confer jurisdiction on the court;  the original pleading stated no cause of action from the beginning.

ACCORDINGLY, the court ADMITS the Amended  Complaint  Answer attached to the Motion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant) is given fifteen (15) calendar days from receipt of this Resolution to file a responsive pleading.

DENIES the Motion for leave to amend because:

it is intended to delay the proceedings.

the amended pleading seeks to confer jurisdiction on the court.

the original pleading stated no cause of action from the beginning.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (other ground/s).

ACCORDINGLY, the Court DENIES the Motion.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 10, Sec. 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.

FORM NO. 10-3a-CV (Rule 10, Section 3: Order for Amendment by Leave of Court)

**O R D E R**

Pursuant to Rule 10, Section 3 of the Rules of Court, the court:

GRANTS the Motion for Leave and admits the Amended  Complaint  Answer attached to the Motion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of plaintiff/defendant) is given \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days from receipt of this Order to file a responsive pleading.

DENIES the Motion for Leave.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 10, Sec. 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.

**Rule 11, Sec. 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.

FORM NO. 10-4-CV (Rule 10, Section 4: Order for Formal Amendment of Pleading)

**O R D E R**

Pursuant to Rule 10, Section 4 of the Rules of Court, considering that no prejudice will be caused to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (adverse party),

upon the court’s initiative,

upon Motion by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

the court allows the formal amendment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title of pleading) by summary correction of the following clerical or typographical error/s: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the error/s and correction/s allowed).

ACCORDINGLY, the Court DIRECTS:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the movant) to amend the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title of pleading).

the Branch Clerk of Court to amend the caption of the case from “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” to “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Note:

**Rule 10, Sec. 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.

FORM NO. 10-6-CV (Rule 10, Section 6: Resolution on Motion to Admit Supplemental Pleading)

**R E S O L U T I O N**

Pursuant to Rule 10, Section 6 of the Rules of Court, and acting on the Motion to file Supplemental \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of pleading), the court:

GRANTS the Motion, considering the nature of the transaction, occurrence or event that supervened after the filing of the action.

ACCORDINGLY, the court admits the Supplemental \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of pleading) attached to the Motion and DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) to pay the corresponding docket fee, if applicable, upon receipt of this Resolution.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) is given \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days from receipt of this Resolution to file a responsive pleading.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 10, 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)

**Rule 6, Sec. 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.

**Rule 11, Sec. 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.

**Rule 11, Sec. 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.

FORM NO. 11-11-CV (Rule 11, Section 11: Order on Motion for Extension of Time to Plead)

**O R D E R**

Pursuant to Rule 11, Section 11 of the Rules of Court, and acting on the Motion for extension of time to file an Answer, the court:

GRANTS the Motion. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) is given an unextendible period of thirty (30) calendar days from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state period) within which to file an Answer. No further Motion for extension shall be entertained.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 11, Sec. 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.

\**If the Motion prays for a period less than 30 days, the judge is advised to grant the Motion for the full period of 30 days.*

FORM NO. 12-3-CV (Rule 12, Section 3: Order Resolving the Motion for Bill of Particulars)

**R E S O L U T I O N**

Pursuant to Rule 12, Section 3 of the Rules of Court, the court resolves the Motion for Bill of Particulars of the following: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate the matter/s sought to be averred by the moving party with sufficient definiteness or particularity, the defects complained of, the paragraphs wherein they are contained and the details desired).

ACCORDINGLY, the court:

GRANTS the Motion  in whole  in part, in order that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of moving party) may properly prepare a responsive pleading.

Only the following matters shall be provided in the bill of particulars: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of adverse party) is ordered to submit the bill of particulars within ten (10) calendar days from receipt of this Resolution.

The defendant is directed to file a responsive pleading within the period remaining therefor, from receipt of the bill of particulars, which shall not be less than five (5) calendar days.

DENIES the motion because:

the allegations in the Complaint are not ambiguous to warrant a bill of particulars.

the matters sought to be specified are more properly ascertainable by discovery for the purpose of trial.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 12, Sec. 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 properly to prepare his responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired.

**Rule 12, Sec. 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.

**Rule 12, Sec. 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.

**Rule 12, Sec. 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.

**Rule 12, Sec. 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.

FORM NO. 14-1-CV (Rule 14, Section 1: Order to Issue and Serve Summons)

**O R D E R**

Pursuant to Rule 14, Section 1 of the Rules of Court, finding no ground to dismiss the Complaint outright, the Branch Clerk of Court is directed to issue summons to the defendant.

The Sheriff/Process Server is directed to cause service of the Summons and the Complaint with its annexes on the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state address) and to complete the service within thirty (30) calendar days from issuance of the summons. The Sheriff/Process Server is mandated to file a Return and cause service thereof on the plaintiff’s counsel within five (5) calendar days from service of summons.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 14, Sec. 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.

**Rule 14, Sec. 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:

(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 separate 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.

FORM NO. 14-17,18-CV (Rule 14, Sections 17 and 18: Extraterritorial Service)

**O R D E R**

Pursuant to Rule 14, Sections 17 and 18 of the Rules of Court, acting on the plaintiff's Motion for Leave to serve summons:

by personal service outside of the Philippines,

under the Hague Service Convention,

by publication outside of the Philippines,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state any other manner the court deems sufficient),

and considering the supporting judicial affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff or some person on his behalf) setting forth the fact that the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ does not reside and is not found in the Philippines, and the action:

affects the personal status of the plaintiff,

relates to, or the subject of which is, property within in the Philippines in which the defendant has or claims a lien or interest, actual or contingent, where the relief demanded consists wholly or in part, in excluding the defendant from any interest therein,

relates to the property of the defendant which has been attached within the Philippines,

is against the defendant who ordinarily resides in, but who is temporarily outside of, the Philippines,

the court GRANTS leave of court and allows, at the expense of the plaintiff-movant, the service of summons on the said defendant by:

personal service at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place where the defendant may be found). For this purpose, the Department of Foreign Affairs is directed to coordinate with the Philippine Embassy in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (consular office abroad) in effecting service of summons on the said defendant.

service under the Hague Service Convention. The plaintiff-movant is directed to procure and secure a prepaid courier pouch to this court for transmission to the Central Authority of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (foreign country where defendant may be found). The plaintiff-movant is directed to pay all fees and costs and present proof of payment within seven (7) calendar days from receipt of the Order. Failure to settle the fees in full may be a ground for direct contempt in addition to other sanctions that the Court may impose in accordance with the Rules of Court.

publication once a week for three (3) consecutive weeks in a newspaper of general circulation in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (foreign country where the defendant may be found).

Let copies of the summons and the Complaint, as well as this Order, be sent by registered mail to the last known address of the defendant, or by any other manner such as electronic mail or other electronic means, as the Court may direct.

The defendant is DIRECTED to file an Answer within sixty (60) calendar days:

from service.

from date of last publication.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 14, Sec. 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 [S]ection [5]; 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)

**Rule 14, Sec. 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. (16)

**Rule 14, Sec. 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. (17)

**Guidelines on the Implementation in the Philippines of the Hague Service Convention on the Service Abroad of Judicial Documents in Civil and Commercial Matters (Administrative Order No. 251-2020)**

II. Requests for Extraterritorial Service of Judicia Documents from the Philippines to Other State Parties

**(Outbound Requests for Service)**

1. ***Application.*** - Upon motion for leave of court of a party in a civil or commercial proceeding, the court shall determine whether extraterritorial service through the Hague Service Convention is necessary, in accordance with Rules 13 and 14 of the Rules of Court, as amended. The motion shall be accompanied, in duplicate, by the following documents:
   1. A copy of the Model Form, including the Request, Certificate, Summary of Documents to be Served, and Warning;
   2. The original documents to be served or certified true copies thereof, including all annexes;
   3. Certified translations of the Model Form and all accompanying documents, where necessary;
   4. An undertaking to pay in full any fees associated with the service of the documents; and
   5. Any other requirements of the Requested State, taking into account its reservations, declarations and notifications, which may be found in the HCCH website.
2. ***Order granting extraterritorial service.*** - If the court finds that extraterritorial service under the Hague Service Convention is wan-anted, it shall issue an Order to that effect. The Order shall include a directive to the requesting party to procure and submit a prepaid courier pouch which shall be used for the transmission of documents from the court to the Central Authority of the Requested State.

The Judge, in the case of lower courts, or the Justice or the Clerk of Court, in the case of collegiate courts, as forwarding authorities, shall accomplish and sign the Request using the Model Form, check the completeness of documents, and ensure compliance with the requirements of the Hague Service Convention and that of the Requested State.

**Section 3. *Fees and costs.*** -When the request for service entails costs and fees, the party, in accordance with his/her undertaking, shall settle the payment and submit the required proof of payment to the clerk of court.

Any assessment after the execution, including any deficiency assessment, shall still be paid by the party at the appropriate time. Proof of payment of the costs and fees shall be immediately sent to the clerk of court where the case is pending.

Failure to settle the fees in full, whenever necessary, shall be a ground for direct contempt of court, in addition to any other sanction that the judge may impose in accordance with the Rules of Court, as amended.

1. ***Transmission of documents abroad.*** - Once all the requirements are submitted by the party requesting the extraterritorial service through the Hague Service Convention, the court shall coordinate with the Central Authority of the Requested State and transmit the following:
   1. The Order granting the extraterritorial service;
   2. The filled-out Request and Summary of Document to be Served with Warning;
   3. The blank Certificate (to be completed by the Central Authority of the Requested State);
   4. The documents sought to be served; and
   5. Certified translations of the Model Form and all accompanying documents, where necessary

The court shall also furnish the OCA with a copy of the request and shall update the OCA on the status of its request.

**7. *Execution of request.*** - The Central Authority of the Requested State shall then process the request and attempt service in accordance with its domestic laws. It shall thereafter provide formal confirmation whether the service was successful or unsuccessful, using the Ce1iificate annexed to the Hague Service Convention. The completed Certificate shall thereafter be transmitted back to the requesting court, and shall form part of the records of the case.

FORM NO. 14-12-CV (Rule 14, Section 12: Return of Service on Private Domestic Juridical Entity)

**R E T U R N**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name),  Sheriff  Process Server of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state court) certify that I served the Summons and the Complaint and its annexes on defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant domestic private juridical entity) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state all dates) through:

President \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name)

Managing Partner \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name)

General Manager \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name)

Corporate Secretary \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name)

Treasurer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name)

In-house Counsel \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ name).

Due to the absence or unavailability of the foregoing persons, service was effected on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), on

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of secretary), the secretary of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of custodian), a person who customarily receives correspondence for the defendant at its principal office.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of receiver or liquidator), the Receiver or Liquidator of the defendant.

Additional remarks: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sheriff/ Process Server

Copy Furnished:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of plaintiff’s counsel)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (address of plaintiff’s counsel)

Notes:

**Rule 14, Sec. 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) separate dates, service may be made electronically, if allowed by the court, as provided under Section 6 of this rule.

**Rule 14, Sec. 20. 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 not be deemed a voluntary appearance.

FORM NO. 14-16-CV (Rule 14, Section 16: Resolution Granting Leave for Service of Summons by Publication upon Defendant Whose Identity or Whereabouts are Unknown)

**R E S O L U T I O N**

Pursuant to Rule 14, Section 16 of the Rules of Court, the plaintiff filed a Motion for Leave to serve summons by publication, alleging that:

defendant is an unknown owner, or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

defendant’s whereabouts remain unknown despite diligent inquiry within ninety (90) calendar days from commencement of the action.

Considering that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) could not be served with summons, as per Sheriff’s Return dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Motion is GRANTED.

ACCORDINGLY, the court allows the service of summons on defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) by publication in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place of publication). The Summons and the Complaint shall be published once a week for three (3) consecutive weeks,[[13]](#footnote-13) in a newspaper of general circulation in the Philippines. The defendant is directed to file an Answer within sixty (60) calendar days[[14]](#footnote-14) from date of last publication.

Let a copy of the Summons and the Complaint, as well as this Resolution, be sent by registered mail to the last known address of the defendant.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 14, Sec. 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)

\* *Courts are reminded of the rules on confidentiality and to exercise sensitivity in relation to cases involving women and children, and to redact personal information in the documents to be published.*

FORM NO. 15-4-CV (Rule 15, Sections 4: Resolution on Non-Litigious Motions)

**R E S O L U T I O N**

Pursuant to Rule 15, Section 4 of the Rules of Court, the court resolves the non-litigious

Motion for the issuance of an alias summons.

Motion for extension to file answer.

Motion for postponement.

Motion for the issuance of a writ of execution.

Motion for the issuance of an alias writ of execution.

Motion for the issuance of a writ of possession.

Motion for the issuance of an order directing the sheriff to execute the final certificate of sale.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title or nature of motion).

ACCORDINGLY, the Court, without prejudicing the rights of the adverse party:

GRANTS the Motion \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason). The Court directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify relief granted).

DENIES the Motion \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 15, Sec. 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 fi le 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.

FORM NO. 15-5-CV (Rule 15, Section 5: Resolution on Litigious Motions)

**R E S O L U T I O N**

Pursuant to Rule 15, Section 5 of the Rules of Court, the court resolves the

Motion for bill of particulars.

Motion to dismiss.

Motion for new trial.

Motion for reconsideration.

Motion for execution pending appeal.

Motion to amend after a responsive pleading has been filed.

Motion to cancel statutory lien.

Motion for an order to break in or for a writ of demolition.

Motion for intervention.

Motion for judgment on the pleadings.

Motion for summary judgment.

Demurrer to evidence.

Motion to declare defendant in default.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title or nature of motion).

In support thereof, the movant argued \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state summary of arguments).

An opposition was filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) where it was alleged \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state summary of arguments).

No opposition was filed within the prescribed period.

ACCORDINGLY, the Court:

SETS THE MOTION for HEARING on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (time) to clarify the following factual matters \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state particulars).

GRANTS the Motion \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason). The Court directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify relief granted).

DENIES the Motion \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 15, Sec. 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)

**Rule 15, Sec. 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. (5)

**Rule 15, Sec. 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. (6)

**Rule 15, Sec. 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. (7)

FORM NO. 15-12-CV (Rule 15, Section 12: Resolution on Prohibited Motions)

**R E S O L U T I O N**

Pursuant to Rule 15, Section 12 of the Rules of Court, acting on the   
 plaintiff’s  defendant’s:

Motion to dismiss not based on:

1. The court’s lack of jurisdiction over the subject matter of the claim,

2. Another action which is pending between the same parties for the same cause,

3. A cause of action barred by a prior judgment,

4. A cause of action barred by the statute of limitations,

Motion to hear affirmative defenses,

Motion for reconsideration of the court’s action on the affirmative defenses,

Motion to suspend proceedings without a temporary restraining order or injunction issued by a higher court,

Motion for postponement intended for delay,

the Court EXPUNGES the same for being prohibited.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Sec. 12, Rule 15. 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)

FORM NO. 17-1-CV (Rule 17, Section 1: Dismissal upon Notice of Plaintiff)

**O R D E R**

Pursuant to Rule 17, Section 1 of the Rules of Court, in view of the Notice of Dismissal tendered by the plaintiff before service of the

the Answer or

a Motion for Summary Judgment,

the court CONFIRMS the dismissal of the case.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Note:

**Rule 17, Sec. 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.

FORM NO. 17-2-CV (Rule 17, Section 2: Dismissal upon Motion of Plaintiff; Dismissal of Counterclaim)

**O R D E R**

Pursuant to Rule 17, Section 2 of the Rules of Court, acting on the Motion to Dismiss filed by the plaintiff, after an Answer has been filed, the court GRANTS the same and dismisses the Complaint  without prejudice  with prejudice.

Within fifteen (15) calendar days from notice of the Motion, upon the defendant’s manifestation:

the pre-trial conference on the counterclaim is set on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

the counterclaim is likewise dismissed without prejudice.

the presentation of evidence on the counterclaim is set on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

the counterclaim is submitted for decision on the basis of the parties’ pleadings.

In the absence of any manifestation within fifteen (15) calendar days from notice of the Motion, the defendant’s counterclaim is dismissed without prejudice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 17, Sec. 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 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 counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he manifests his preference to have his 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.

FORM NO. 17-3-CV (Rule 17, Section 3: Dismissal Due to Fault of Plaintiff)

**O R D E R**

Pursuant to Rule 17, Section 3 of the Rules of Court, the court finds that the plaintiff failed to:

appear on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify date/s) for the presentation of the evidence in chief on the Complaint.

prosecute the action for an unreasonable length of time due to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify factual basis for failure to prosecute).

comply with the

Rules \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify rule).

Order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify date and details).

ACCORDINGLY, the Complaint is dismissed

with prejudice.

without prejudice.

The defendant is DIRECTED to manifest whether or not he/she/it intends to pursue the counterclaim to the Court within fifteen (15) calendar days from receipt hereof.

Failure to comply within the given period shall cause the dismissal of the defendant’s counterclaim without prejudice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 17, Sec. 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 evidence in chief on the complaint, or to prosecute his 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 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.

FORM NO. 18-3-CV (Rule 18; Prescribed Form No. 1 of the 2019 Rules of Civil Procedure: Notice of Pre-Trial)

**NOTICE OF PRE-TRIAL**

The parties, personally or through their duly authorized representatives, and their respective counsel, are directed to appear at the Pre-Trial Conference on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_ A.M./P.M.,

The parties are required 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 any stage of the Pre-Trial, including for mediation and judicial dispute resolution, shall merit the sanction of dismissal of the action, for the plaintiff ’s and counsel’s non-appearance, and allowance of plaintiff’s *ex parte* evidence presentation and *ex parte* judgment, for defendant’s and 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 admissions of facts and documents.

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

Notes:

**Rule 18, Sec. 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)

**Rule 18, Sec. 2. Nature and [p]urpose.** – The pre-trial is mandatory and should be terminated promptly. The court shall consider:

* 1. The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
  2. The simplification of the issues;
  3. The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
  4. The limitation of the number and identification of witnesses and the setting of trial dates;
  5. The advisability of a preliminary reference of issues to a commissioner;
  6. 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;
  7. 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.

* 1. 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)

**Rule 18, Sec. 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 pretrial and shall merit the same sanctions under Section 5 hereof.

**Rule 18, Sec. 4. Appearance of [p]arties.** – 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.

**Rule 18, Sec. 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 [S]ection, 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)

**Rule 18, Sec. 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:

1. A concise statement of the case and the reliefs prayed for;
2. A summary of admitted facts and proposed stipulation of facts;
3. The main factual and legal issues to be tried or resolved;
4. The propriety of referral of factual issues to commissioners;
5. The documents or other object evidence to be marked, stating the purpose thereof;
6. The names of the witnesses, and the summary of their respective testimonies; and
7. 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)

FORM NO. 18-5-CV (Rule 18, Section 5: Order If Plaintiff or Defendant Fails to Appear for Pre-Trial Conference or Files Pre-Trial Brief)

**O R D E R**

Pursuant to Rule 18, Section 5 of the Rules of Court, at today’s Pre-Trial Conference, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state parties and counsel present) were present.

For failure of plaintiff and/or counsel  to appear at the Pre-Trial Conference  to file Pre-Trial Brief,

the Complaint is dismissed  with prejudice  without prejudice.

set *ex parte* presentation of defendant’s evidence on the counterclaim on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

the counterclaim is submitted for judgment.

For failure of defendant and/or counsel  to appear at the Pre-Trial Conference  to file Pre-Trial Brief,

the counterclaim is dismissed  with prejudice  without prejudice.

set *ex parte* presentation of plaintiff’s evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

the Complaint is submitted for judgment.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 18, Sec. 4. Appearance of [p]arties**. – 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.

**Rule 18, Sec. 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 [S]ection, 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.

**Rule 18, Sec. 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:

1. A concise statement of the case and the reliefs prayed for;
2. A summary of admitted facts and proposed stipulation of facts;
3. The main factual and legal issues to be tried or resolved;
4. The propriety of referral of factual issues to commissioners;
5. The documents or other object evidence to be marked, stating the purpose thereof;
6. The names of the witnesses, and the summary of their respective testimonies; and
7. 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.

*\* If the party appears without counsel, the judge is advised to first issue a show cause order to the absent counsel. If the explanation is unsatisfactory or no explanation is submitted, the judge should impose the sanctions under Section 5.*

FORM NO. 18-7-CV (Rule 18, Section 7 in relation to Rule 30, Sections 4 and 5: Pre-Trial Order)

**P R E – T R I A L O R D E R**

At today’s Pre-Trial Conference, the following parties appeared:

For the Plaintiff: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (State name of plaintiff and counsel)

For the Defendant: \_\_\_\_\_\_\_\_\_ (State name of defendant and counsel)

**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:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (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:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

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

**III. ADMISSIONS AND STIPULATIONS**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IV. ISSUES**

1. Issue/s of Fact
2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. Issue/s of Law
6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
8. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**V. REFERRAL TO COMMISSIONERS**

The court appoints:

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

as commissioners to receive evidence on the following issue/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state issue/s).

The court appointed commissioner/s is/are directed to appear before this court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to take their oath.

After taking the oath of office, the court appointed commissioner/s 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.

The court appointed commissioner/s is/are directed to file their report on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**VI. ACTION BY THE COURT**

There being no other matter to be considered, the pre-trial conference is terminated. This case is:

submitted for summary judgment considering that there are no more controverted facts or genuine issues to be resolved,  in whole  in part (proceed to trial option for remaining issue/s).

submitted for judgment on the pleadings considering that the answer fails to tender an issue, or otherwise admits the material allegations of the adverse party’s pleading,  in whole  in part (proceed to trial option for remaining issue/s).

set for trial in accordance with the following calendar:

Plaintiff’s Evidence

|  |  |  |
| --- | --- | --- |
| Name of Witness | Date and Time | Substance of Testimony |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |

Defendant’s Evidence

|  |  |  |
| --- | --- | --- |
| Name of Witness | Date and Time of Testimony | Substance of Testimony |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |

The trial dates are final and intransferrable. No motion for postponement that is dilatory in character, that is, not based on acts of God, *force majeure* or duly substantiated physical inability of the witness to appear and testify, shall be entertained by the court. If the motion is granted, the party who caused the postponement must complete the presentation of evidence within the remaining dates previously agreed upon.

The parties are ordered to immediately proceed and personally appear at the Philippine Mediation Center located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PMC Unit) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) without their counsel, 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.

Failure of the party or 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 notified.

Let subpoena  *ad testificandum*  *duces tecum* be issued to:

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Witness | Date and Time of trial | Address (physical or email as stated in the judicial affidavit) | Substance of testimony or description of object or document |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |

|  |
| --- |
| **CONFORMITY** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Plaintiff | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Plaintiff's Counsel | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant's Counsel |
| ATTESTED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Branch Clerk of Court  SO ORDERED.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  Place Date  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Presiding Judge | |

Notes:

**Rule 18, Sec. 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:

* 1. An enumeration of the admitted facts;
  2. The minutes of the pre-trial conference;
  3. The legal and factual issue/s to be tried;
  4. The applicable law, rules, and jurisprudence;
  5. The evidence marked;
  6. The specific trial dates for continuous trial, which shall be within the period provided by the Rules;
  7. 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;
  8. 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
  9. 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)

**Rule 18, Sec. 2. Nature and [p]urpose.** – The pre-trial is mandatory and should be terminated promptly. The court shall consider:

* 1. The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
  2. The simplification of the issues;
  3. The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
  4. The limitation of the number and identification of witnesses and the setting of trial dates;
  5. The advisability of a preliminary reference of issues to a commissioner;
  6. 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;
  7. The requirement for the parties to:
  8. Mark their respective evidence if not yet marked in the judicial affidavits of their witnesses;
  9. Examine and make comparisons of the adverse parties’ evidence vis-a-vis the copies to be marked;
  10. Manifest for the record stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties’ evidence;
  11. Reserve evidence not available at the pre-trial, but only in the following manner:
      1. For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;
      2. 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.

* 1. 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).

**Rule 18, Sec. 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.

**Rule 30, Sec. 1. Schedule of trial. –** The parties shall strictly observe the scheduled hearings as agreed upon and set forth in the pre-trial order.

* + - 1. The schedule of the trial dates, for both plaintiff and defendant, shall be continuous and within the following periods:

1. 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;
2. 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;
3. 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
4. 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.
   * + 1. 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.
       2. 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.

**Rule 30, Sec. 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 [(1)] month for each adjournment, nor more than three [(3)] 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.

**Rule 30, Sec. 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.

**Rule 30, Sec. 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.

FORM NO. 19-1-CV (Rule 19, Section 1: Order on Motion for Leave to Intervene)

**R E S O L U T I O** **N**

Pursuant to Rule 19 of the Rules of Court, acting on the Motion for Leave to Intervene filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of proposed intervenor), the court

GRANTS the Motion and admits the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of pleading-in-intervention) attached to the Motion, because the movant:

has a legal interest in the matter in litigation;

has a legal interest in the success of either of the parties, or against both;

is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court of an officer thereof.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of adverse party) is directed to file a responsive pleading within fifteen (15) calendar days from receipt of this Order.

DENIES the motion because:

the movant has no legal interest in the matter in litigation.

the movant has no legal interest in the success of either of the parties, or against both.

the movant is not so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court of an officer thereof.

the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

the movant’s rights may be fully protected in a separate proceeding.

judgment has been rendered.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 19, Sec. 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)

**Rule 19, Sec. 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)

**Rule 19, Sec. 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)

**Rule 19, Sec. 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)

*\*The period to file a responsive pleading to the pleading-in-intervention under Section 4 of Rule 19 is fifteen (15) calendar days. Note, however, that under the 2019 Amendments, the period to file an answer to the complaint is thirty (30) calendar days, considering the new content requirements under Rule 7, Sec. 6. Judges are advised to be considerate in granting a motion to extend the period to file a responsive pleading to the pleading-in-intervention.*

FORM NO. 21-1-CV (Rule 21, Section 1: Order for the Issuance of Subpoena)

**R E S O L U T I O N**

Pursuant to Rule 21, Section 1 of the Rules of Court, acting on the Motion to Issue Subpoena  *duces tecum*  *ad testificandum* filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), the court

GRANTS the Motion and directs the issuance of a Subpoena  *duces tecum*  *ad testificandum* for the following: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state documents or objects to be produced, or the name, position, and address of the person required to appear and testify).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of person subject of subpoena) is directed to appear before the court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to bring the foregoing documents or objects and/or to testify.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant) is DIRECTED to tender the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate amount), representing the mandated costs under Rule 141 of the Rules of Court for court attendance of the witness and/or the production of documents or objects subject of the subpoena, and present proof of payment within three (3) calendar days from receipt of this Resolution. Otherwise, the same shall be charged against the movant.

DENIES the Motion because:

it is unreasonable and oppressive.

the relevancy of the books, documents or things does not appear.

the witness resides more than one hundred (100) kilometers from the Court in the ordinary course of travel.

the witness is a prisoner sentenced to death, *reclusion perpetua*, or life imprisonment.

the witness is a detention prisoner who has not secured court permission from the court trying his or her case.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state other ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 21, Sec. 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.

**Rule 21, Sec. 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 of the Court of Appeals in any case or investigation pending within the Philippines.

When 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 said penal institution for appearance or attendance in any court unless authorized by the Supreme Court (2a, R23)

**Rule 21, Sec. 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.

**Rule 21, Sec. 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.

*\*Note that Rule 21, Section 10 provides that a subpoena shall not apply to a witness who resides more than one hundred (100) kilometers from the Court 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. However, the judge may still avail of the provisions of the Guidelines on Videoconferencing Hearings (A.M. No. 20-12-01-SC).*

**OCA Circular No. 163-2013, par. V.** Every Judge in the National Capital Judicial Region and in the Provinces of Rizal, Bulacan, Cavite, and Laguna who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in the New Bilibid Prison or Correctional Institution for Women is directed to conduct such proceeding within the premises of the said penal institutions.

**OCA Circular No. 163-2013, par. VI.** Every Judge of a court outside of the National Capital Judicial Region and the Provinces of Rizal, Bulacan, Cavite, and Laguna who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in the New Bilibid Prison or Correctional Institution for Women is directed to immediately refer the matter to the Supreme Court through the Office of the Court Administrator for appropriate action.

**OCA Circular No. 163-2013, par. VII.** Every Judge who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in any other national penal institution mentioned in Section III hereof is directed to conduct such proceeding within the premises of said penal institution or, when such action is deemed impractical, to immediately refer the matter to the Supreme Court through the Office of the Court Administrator for appropriate action.

**OCA Circular No. 163-2013, par. VIII.** Whenever circumstances justify the issuance of a Subpoena or Summons effecting the transfer of a prisoner from his original place of confinement, his testimony should be taken at once, and immediately thereafter he should be returned to the said original place of confinement.

FORM NO. 21-4-CV (Rule 21, Section 4: Order on Motion to Quash Subpoena)

**R E S O L U T I O N**

Pursuant to Rule 21, Section 4 of the Rules of Court, acting on the Motion to Quash Subpoena  *duces tecum*  *ad testificandum* filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), the court

GRANTS the Motion and quashes the Subpoena because:

it is unreasonable and oppressive.

the relevancy of the books, documents or things does not appear.

the requesting person failed to advance reasonable cost of the production thereof.

the mandated witness fees and kilometrage were not tendered when the Subpoena was served.

the witness resides more than one hundred (100) kilometers from the Court in the ordinary course of travel.

the witness is a prisoner sentenced to death, *reclusion perpetua*, or life imprisonment.

the witness is a detention prisoner who has not secured court permission from the court trying his or her case.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 21, Sec. 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.

**Rule 21, Sec. 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 of the Court of Appeals in any case or investigation pending within the Philippines.

When 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 said penal institution for appearance or attendance in any court unless authorized by the Supreme Court (2a, R23)

**Rule 21, Sec. 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.

**Rule 21, Sec. 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.

**OCA Circular No. 163-2013, par. V.** Every Judge in the National Capital Judicial Region and in the Provinces of Rizal, Bulacan, Cavite, and Laguna who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in the New Bilibid Prison or Correctional Institution for Women is directed to conduct such proceeding within the premises of the said penal institutions.

**OCA Circular No. 163-2013, par. VI.** Every Judge of a court outside of the National Capital Judicial Region and the Provinces of Rizal, Bulacan, Cavite, and Laguna who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in the New Bilibid Prison or Correctional Institution for Women is directed to immediately refer the matter to the Supreme Court through the Office of the Court Administrator for appropriate action.

**OCA Circular No. 163-2013, par. VII.** Every Judge who requires the attendance or appearance in any judicial proceeding of a national prisoner or detainee confined in any other national penal institution mentioned in Section III hereof is directed to conduct such proceeding within the premises of said penal institution or, when such action is deemed impractical, to immediately refer the matter to the Supreme Court through the Office of the Court Administrator for appropriate action.

**OCA Circular No. 163-2013, par. VIII.** Whenever circumstances justify the issuance of a Subpoena or Summons effecting the transfer of a prisoner from his original place of confinement, his testimony should be taken at once, and immediately thereafter he should be returned to the said original place of confinement.

**Rule 141, Sec. 13. Witness fees**. — (a) Witnesses in the Supreme Court, in the Court of Appeals and in the Regional Trial Courts, either in actions or special proceedings, shall be entitled to one hundred (P100.00) pesos per day inclusive of travel time;

(b) Witnesses before courts of the first level shall be allowed fifty (P50.00) pesos per day;

(c) Fees to which witnesses may be entitled in a civil action shall be allowed, on a certification of the clerk of court or judge of his appearance in the case. A witness shall not be allowed compensation for his attendance in more than one case or more than one side of the same case at the same time, but may elect in which of several cases or on which side of a case, when he is summoned by both sides, to claim his attendance. A person who is compelled to attend court on other business shall not be paid as witness. (11a)

FORM NO. 23-1, 25-CV (Rule 23, Sections 1 and 25: Order Allowing Deposition Upon Oral Examination or Written Interrogatories)

**O R D E R**

Pursuant to Rule 23 of the Rules of Court, the court allows the taking of the deposition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name and address of person to be examined if known, or a general description sufficient to identify him or the particular class or group to which he belongs) by

oral examination upon the *ex parte* motion by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of requesting party), to be held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (time and date for taking deposition) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place) before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of officer taking the deposition).

Notice of the deposition taking shall be served upon the other parties to the action.

written interrogatories, which \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of requesting party) shall serve upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of other party/ies) 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 taking by written interrogatories is to be taken for all the parties.

Within ten (10) calendar days from receipt of the interrogatories, the other party/ies may serve cross-interrogatories upon the requesting party. Within five (5) calendar days thereafter, the latter may serve re-direct interrogatories upon such party. Within three (3) calendar days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the requesting party.

The deposition taking shall be completed no later than sixty (60) calendar days from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 18, Sec. 2. Nature and purpose**. – The pre-trial is mandatory and should be terminated promptly. The court shall consider:

xxx

(g) The requirement for the parties to:

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.

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

FORM NO. 23-11,12,13-CV (Rule 23, Sections 11, 12 and 13: Commission)

**C O M M I S S I O N**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of Officer being commissioned)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Descriptive Title)

GREETINGS:

It appears that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of witness/es), whose testimony is/are necessary, is/are residing within your jurisdiction.

You are therefore commissioned to take the testimony of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of witness/es) and to transmit it to this court duly closed and sealed, within ninety (90) calendar days from receipt of this Commission.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Note:

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

FORM NO. 23-12-CV (Rule 23, Section 12: Order for Issuance of Commission or Letters Rogatory)

**O R D E R**

Pursuant to Rule 23, Section 12 of the Rules of Court, and acting on the Application for Issuance of Commission or Letters Rogatory, with notice to persons/parties concerned, the court

GRANTS the Application, finding the same to be  necessary  convenient, and orders the issuance of the

Commission

Letters Rogatory

addressed to the appropriate authority in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the foreign country) through the Department of Foreign Affairs.

DENIES the Application, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 23, Sec. 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.

FORM NO. 23-11,12,13-CV (Rule 23, Sections 11, 12 and 13: Letters Rogatory)

**L E T T E R S R O G A T O R Y**

TO THE APPROPRIATE JUDICIAL AUTHORITY

IN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state foreign country)

GREETINGS:

It appears that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of witness/es), whose testimony is/are necessary, is/are residing within your jurisdiction.

The court therefore request that the testimony of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of witness/es) be formally taken and transmitted to the court duly sealed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

**Rule 23, Sec. 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.

FORM NO. 23-16-CV (Rule 23, Section 16: Order for the Protection of Parties and Deponents)

**O R D E R**

Pursuant to Rule 23, Section 16 of the Rules of Court, upon motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of movant) and for good cause shown, the court orders that:

the deposition shall not be taken.

the deposition may be taken only at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (designate place other than the one in the notice).

the deposition may be taken only on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (designate date and time other than the one in the notice).

the deposition may be taken only on written interrogatories before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of officer designated in the notice).

the following matters shall not be inquired into: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

the scope of the examination shall be held with no one present except the parties to the action \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enumerate) and their officers or counsel \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enumerate).

after being sealed, the deposition shall be opened only by order of the Court.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify secret processes, developments, or research) shall not be disclosed.

the parties shall simultaneously file \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify documents or information) enclosed in sealed envelopes to be opened as directed by the Court, within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days (state period) from receipt of this Order.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify directive) to protect \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party or witness) from annoyance, embarrassment, or oppression.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 23, Sec. 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.

**Rule 23, Sec. 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 direction and in his 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.

FORM NO. 23-18-CV (Rule 23, Section 18: Order Granting the Motion to Terminate or Limit Examination)

**O R D E R**

Pursuant to Rule 23, Section 18 of the Rules of Court, and acting on the Motion to

terminate the examination;

limit the examination to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify the scope of the limitations);

and upon the court’s finding that the examination is being conducted in

bad faith, or

in such a manner as unreasonably to annoy, embarrass, or oppress the deponent or a party,

the court DIRECTS the:

termination of the deposition taking.

limitation of the scope and manner of the taking of deposition, as follows \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

payment by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of liable person) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deponent, party and/or counsel, the deposing officer) the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate amount) as reasonable costs or expenses.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 23, Sec. 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.

**Sec. 16, Rule 23. 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.

*\*Judges are advised to be cautious about terminating the entire deposition taking if there are matters still to be taken up as may be proposed by the requesting party.*

FORM NO. 24-1, 7-CV (Rule 24, Sections 1 and 7: Deposition Before Action or Pending Appeal)

**O R D E R**

Pursuant to Rule 24, Sections 1 and 7 of the Rules of Court, the court, being satisfied that the perpetuation of the testimony sought may prevent a failure or delay of justice, ALLOWS the deposition

before action upon notice

pending appeal upon motion

of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name and address of person to be examined if known, or a general description sufficient to identify him or her, or the particular class or group to which he or she belongs) by

oral examination upon the *ex parte* motion by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (requesting party), to be held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (time and date for taking deposition) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place) before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of officer taking the deposition).

Notice of the deposition taking shall be served upon the other parties to the action.

written interrogatories, which \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (requesting party) shall serve upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of other party/ies) 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 taking by written interrogatories is to be taken for all the parties.

Within ten (10) calendar days from receipt of the interrogatories, the other party/ies may serve cross-interrogatories upon the requesting party. Within five (5) calendar days thereafter, the latter may serve re-direct interrogatories upon such party. Within three (3) calendar days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the requesting party.

The deposition taking shall be completed no later than sixty (60) calendar days from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 24, Sec. 1. Depositions before action; petition**. A person who desires to perpetuate his 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.

**Rule 24, Sec. 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) 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.

**Rule 24, Sec. 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.

**Rule 24, Sec. 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 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.

**Rule 23, Sec. 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, at the instance of any party, 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.

**Rule 23, Sec. 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 belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time.

**Rule 23, Sec. 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.

**Rule 18, Sec. 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 arid 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 vet 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)

(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)

FORM NO. 25-1,3-CV (Rule 25, Sections 1 and 3: Resolution on Objections to Interrogatories)

**R E S O L U T I O N**

Pursuant to Rule 25, Sections 1 and 3 of the Rules of Court, upon objections filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of party served) to the interrogatories served by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of requesting party), the court:

OVERRULES the objection/s to the interrogatories \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify question number) considering that the questions are proper because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground).

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) is directed to file an answer to the interrogatories, within fifteen (15) calendar days from receipt of this Resolution.

SUSTAINS the objection/s to the interrogatories \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify question number) considering that the questions are improper because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground).

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify question/s) shall not be answered. However, the remainder of the interrogatories shall be answered, within fifteen (15) calendar days from receipt of this Resolution.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 25, Sec. 1. Interrogatories to parties; service thereof**. – Upon *ex parte* motion, 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)

**Rule 25, Sec. 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) calendar days after service thereof, unless the court, on motion and for good cause shown, extends or shortens the time.

**Rule 25, Sec. 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)

**Rule 25, Sec. 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)

**Rule 25, Sec. 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. (5a)

**Rule 25, Sec. 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

FORM NO. 26-2-CV (Rule 26, Section 2: Order on the Objections to Request for Admission)

**O R D E R**

Pursuant to Rule 26, Section 2 of the Rules of Court, the court, considering the Request for Admission of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the title of the documents)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the fact/s)

SUSTAINS the objection/s because the documents and/or facts sought to be admitted is/are  privileged information  immaterial and irrelevant to the issue/s raised in the pleadings  the party requested is incompetent  already admitted.

OVERRULES the objection/s because the documents and/or facts sought to be admitted is/are material and relevant to the issue/s raised in the pleadings.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party served) is DIRECTED to file, within fifteen (15) calendar days from receipt of this Order, a sworn statement

denying specifically the documents and/or facts of which admission is requested

setting forth in detail the reasons why he or she cannot truthfully either admit or deny those documents and/or facts.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 26, Sec. 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 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 sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable.

**Rule 25, Sec. 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.

FORM NO. 27-1-CV (Rule 27, Section 1: Order Acting on the Motion for Production or Inspection of Documents, Things or Property)

**O R D E R**

Pursuant to Rule 27, Section 1 of the Rules of Court, and acting on the Motion filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (movant) for the  production  inspection of

documents or things,

property,

the court GRANTS the Motion there being good cause shown, and orders \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party required to produce, permit inspection or entry):

to produce and permit the inspection and copying or photographing of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify documents, papers, books, accounts, letters, photographs, objects or tangible things sought to be produced) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place), at the expense of the movant, in an amount to be approved by the Court.

to permit entry into \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify land or property) for the purpose of inspecting, measuring, surveying, or photographing the property, or any designated relevant object or operation thereon, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place), at the expense of the movant, in an amount to be approved by the Court.

the Court DENIES the Motion, there being no good cause shown.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 27, Sec. 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 possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his 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.

*\* In case of entry into real property or inspection of movable property which cannot be brought to court, the judge is advised to direct the branch clerk of court to accompany the movant in conducting such inspection and to make a report thereon.*

FORM NO. 28-1,2-CV (Rule 28, Sections 1 and 2: Order Allowing/Disallowing Physical or Mental Examination)

**O R D E R**

Pursuant to Rule 28, Sections 1 and 2 of the Rules of Court, and finding that the physical or mental condition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) is in controversy, the court,

on its own initiative,

upon Motion, after notice to the party to be examined and to all other parties,

upon good cause shown, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details)

DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) to submit himself to a

physical examination

mental examination

on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place) by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (examining physician) to cover \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (scope of examination).

Costs for the examination shall be borne by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of requesting party).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 28, Sec. 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 to submit to a physical or mental examination by a physician.

**Rule 28, Sec. 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.

**Rule 28, Sec. 3. Report of findings**. — If requested by the party examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his 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 testimony if offered at the trial.

FORM NO. 29-3,5-CV (Rule 29, Sections 3 and 5: Consequences of Refusal to Comply with Orders for Discovery)

**O R D E R**

Pursuant to Rule 29, Sections 3 and 5 of the Rules of Court, and in view of the refusal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party or managing agent of a party) to obey the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ requiring said party to

answer designated questions, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify the matters regarding which the questions were asked),

appear before the officer who is to take the deposition, after being served with proper notice, upon motion,

serve answers to interrogatories under Rule 25, after proper service of such interrogatories, upon motion,

produce \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify document or other thing for inspection, copying or photographing) or to permit it to be done, the contents thereof,

permit entry upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify designated land or other property), the character or description of the subject property,

submit to a:

physical examination, the physical condition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the party sought to be examined,

mental examination, the mental condition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or any other designated facts relating to, the party sought to be examined,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party, officer or managing agent of a party, officer or managing agent of a party):

shall be deemed to have admitted 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, for the purposes of the action in accordance with the claim of the party obtaining the order.

is prohibited from  supporting or opposing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify designated claims or defenses)  introducing in evidence \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify designated documents or things or items of testimony)  introducing evidence of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify physical or mental condition).

Further, the Court ORDERS:

the striking out of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the title of the pleading or parts thereof).

the stay of further proceedings until the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is obeyed.

the dismissal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (action or any part thereof).

the submission of the case for judgment by default against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the disobedient party).

the arrest of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (party or agent of a party) for disobeying any of such Orders, except an order to submit to a physical or mental examination.

the payment of reasonable expenses incurred by the other party, including attorney’s fees, in the amount of \_\_\_\_\_\_\_\_\_ (specify amount).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 29, Sec. 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 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 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:

1. 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.
2. 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.
3. 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 judgment by default against the disobedient party; and
4. 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.

**Rule 29, Sec. 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.

**Rule 29, Sec. 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.

FORM NO. 30-2,3,4-CV (Rule 30, Sections 2, 3 and 4: Order for Adjournments / Postponements)

**R E S O L U T I O N**

Pursuant to Rule 30, Sections 3 and 4 in relation to Rule 18, Section 7, of the Rules of Court, acting on the Motion to Postpone Trial, the court:

DENIES the Motion because  it is dilatory  the postponement fee was not paid. The setting of trial on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) is maintained.

GRANTS the Motion on the ground of:

acts of God or force majeure \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

physical inability of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party or counsel) to appear in court, supported by an affidavit or Sworn Certification that the presence of such party or counsel at the trial is indispensable and that the character of the inability is such as to render the non-attendance excusable.

ACCORDINGLY, the:

hearing for presentation of the  plaintiff’s  defendant’s evidence is reset to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time). Movant is warned that the presentation of evidence must be completed within the remaining trial dates assigned to such party.

hearing for presentation of the defendant’s evidence is set on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) considering that the plaintiff has no more date remaining for presentation of evidence.

Upon oral offer, plaintiff’s exhibits \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify) are admitted.

The case is set for hearing for the oral offer of exhibits of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff). Failure to appear on that date shall result in a waiver of the formal offer of exhibits or any objection thereto.

defendant has no more date remaining for the presentation of evidence,

Upon oral offer, defendant’s exhibits \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are admitted. The case is submitted for decision.

The case is set for hearing for the oral offer of exhibits of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant). Failure to appear on that date shall result in a waiver of the formal offer of exhibits or any objection thereto.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 30, Sec. 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.

**Rule 30, Sec. 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)

**Rule 30, Sec. 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 their scheduled hearings, pursuant to OCA Circular No 250-2015.

**Rule 30, Sec. 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 Section 34 to 40 of Rule 132.

*\*While the offer of evidence is required to be made orally, the judge may encourage the parties to prepare a list of exhibits with the description and stated purposes, to aid the judge, the adverse counsel, the branch clerk of court and the stenographer.*

FORM NO. 30‑6‑CV (Rule 30, Section 6: Oral Offer of Exhibits)

**O R D E R**

Pursuant to Rule 30, Section 6 of the Rules of Court, in relation to Rule 132, Sections 34, 35, 36, 38, and 40 of the Rules of Court,  plaintiff  defendant made an oral offer of the following Exhibits, with the corresponding comments made by the opposing party, and the disposition of the court:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| EXHIBIT | DESCRIPTION | PURPOSE OF OFFER | COMMENT/  OBJECTION | RULING | REASON |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

Tender of evidence was made for Exhibits \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Set presentation of  defense's evidence  rebuttal evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

The case is submitted for Decision.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 30, 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.

**Rule 132, Section 34. Offer of Evidence.** —The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

**Rule 132, Section 35. When to make offer.** —All evidence must be offered orally.

The offer of testimony of a witness in evidence must be made at the time the witness is called to testify.

The offer of documentary and object evidence shall be made after the presentation of a party’s testimonial evidence.

**Rule 132, Section 36. Objection.** — Objection to offer of evidence must be made orally immediately after the offer is made.

Objection to the testimony of a witness for lack of a formal offer must be made as soon as the witness begins to testify. Objection to a question propounded in the course of the oral examination of a witness must be made as soon as the grounds therefor become reasonably apparent.

The grounds for the objections must be specified.

**Rule 132, Section 38. Ruling.** —The ruling of the court must be given immediately after the objection is made, unless the court desires to take a reasonable time to inform itself on the question presented; but the ruling shall always be made during the trial and such time as will give the party against whom it is made an opportunity to meet the situation presented by the ruling.

**Rule 132, Section 40. Tender of excluded evidence.** —If documents or things offered in evidence are excluded by the court, the offeror may have the same attached to or made part of the record. If the evidence excluded is oral, the offeror may state for the record the name and other personal circumstances of the witness and the substance of the proposed testimony.

FORM NO. 30-9-CV (Rule 30, Section 9: Order Delegating the Reception of Evidence to Clerk of Court)

**O R D E R**

Pursuant to Rule 30, Section 9 of the Rules of Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies) is/are DIRECTED to present evidence before the Branch Clerk of Court, Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of branch clerk of court), on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies) is/are DIRECTED to pay the mandated fees with the Office of the Clerk of Court, and the official receipt therefor shall be presented to the Court before such reception of evidence.

Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of branch clerk of court) shall submit a commissioner's report and the assigned stenographer, the transcript of stenographic notes of the reception of evidence, within ten (10) calendar days from termination of the presentation of evidence.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 30, 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.

\**While the offer of evidence is required to be made orally, the judge may encourage the party, in ex parte proceedings, to prepare a list of exhibits with the description and stated purposes, to aid the judge, the branch clerk of court and the stenographer.*

FORM NO. 31-1-CV (Rule 31, Section 1: Order for Consolidation of Cases)

**R E S O L U T I O N**

Pursuant to Rule 31, Section 1 of the Rules of Court, and acting on the Motion for Consolidation of this case with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state case to be consolidated) pending before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the branch of the court), the court

GRANTS the Motion considering that the actions involve common

question/s of law \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

question/s of fact \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

The court orders the consolidation of this case with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state case title and number to be consolidated), the lower numbered case, for joint hearing/trial of any or all of the matters in issue, subject to the right of replacement.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 31, Sec. 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.

*\* Consolidation is primarily designed to guard against conflicting decisions on common questions of fact and/or law. The convenience of the court and the parties is only secondary.*

FORM NO. 31-2-CV (Rule 31, Section 2: Order for Separate Trial of Cases)

**R E S O L U T I O N**

Pursuant to Rule 31, Section 2 of the Rules of Court, and acting on the Motion for Separate Trial, the court:

GRANTS the Motion

in furtherance of convenience because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s)

to avoid prejudice because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s),

and orders the separate trial of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify the case/s or claim/s, or issue/s).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 31, Sec. 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, cross-claims, counterclaims, third-party complaints or issue.

FORM NO. 32-1, 2, 3-CV (Rule 32, Sections 1, 2 and 3: Order of Reference to a Commissioner)

**O R D E R**

Pursuant to Rule 32, Section 2 of the Rules of Court,

upon agreement of the parties,

on motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party),

on the court’s initiative,

the court ORDERS the referral of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify matter/s to be referred) to Commissioner/s because:

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.

the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.

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.

For this purpose, the parties are DIRECTED to furnish the name/s as well as credentials of their proposed Commissioner/s to this court and to the other parties, within fifteen (15) calendar days from receipt of this Order.

Upon receipt of the name/s and credential/s of the proposed commissioner/s of the nominating party, the adverse party may file any opposition within five (5) calendar days.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 32, 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)

**Rule 32, Sec. 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.

**Rule 32,** **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.

FORM NO. 32-3-CV (Rule 32: Order of Appointment of Commissioner)

**O R D E R**

Pursuant to Rule 32 of the Rules of Court, the court APPOINTS:

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

as commissioner/s to receive evidence on the following issue/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state issue/s).

The court appointed commissioner/s is/are directed to appear before this court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, for them to take their oath.

After taking the oath of office, the court appointed commissioner/s 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.

The commissioner/s shall be entitled to such compensation as provided by the rules. Such fees shall be taxed as part of the costs of the proceedings.

The court-appointed commissioner/s is/are DIRECTED to file their report on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 32, Sec. 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.

*\*The commissioners’ fees may be charged to the movant, or as costs in the judgment apportioned between the parties. If the costs are charged in the judgment, the judge may direct the issuance of execution for its payment regardless of an appeal of the main judgment.*

FORM NO. 32-11-CV (Rule 32, Section 11: Action on the Commissioner's Report)

**O R D E R**

Pursuant to Rule 32, Section 11 of the Rules of Court, the court NOTES the Commissioner’s Report dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) and:

ADOPTS the Commissioner’s Report,

in whole.

in part, only as to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify parts adopted).

DISAGREES with the following findings \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enumerate) in the Commissioner’s Report because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify reason/s).

RECOMMITS the matter to the Commissioner/s with the following instruction/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

REQUIRES \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies) to present further evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify matter) before the Court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 32, Sec. 9. Report of commissioner**. — Upon the completion of the trial or hearing or proceeding before the commissioner, he shall file with the court his report in writing upon the matters submitted to him by the order of reference. When his powers are not specified or limited, he shall set forth his findings of fact and conclusions of law in his report. He shall attach thereto all exhibits, affidavits, depositions, papers and the transcript, if any, of the testimonial evidence presented before him.

**Rule 32, Sec. 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) 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.

**Rule 32, Sec. 11. Hearing upon report**. — Upon the expiration of the period of ten (10) 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.

FORM NO. 33-1-CV (Rule 33, Section 1: Order on Demurrer to Evidence)

**O R D E R**

Pursuant to Rule 33, Section 1 of the Rules of Court, the court:

GRANTS the Demurrer to Evidence filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (defendant) on the ground that upon the facts and the law, the plaintiff has shown no right to relief because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, The case is DISMISSED.

DENIES the Demurrer to Evidence filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (defendant) on the ground that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

The presentation of evidence for the defendant is set on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 33, Sec. 1. Demurrer to evidence**. — After the plaintiff has completed the presentation of his 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 motion is denied he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.

**Rule 33, Sec. 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.

­FORM NO. 34-1, 2-CV (Rule 34 Sections 1 and 2: Order on Judgment on the Pleadings)

**O R D E R**

Pursuant to Rule 34, Sections 1 and 2 of the Rules of Court, the court  on its own initiative  upon Motion for Judgment on the Pleadings filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant),

DIRECTS that the case be submitted for judgment on the pleadings because the Answer:

fails to tender an issue.

otherwise admits the material allegations of the plaintiff’s pleading.

DENIES the Motion on the ground that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s). Set this case for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify stage of proceeding) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 34, Sec. 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.

**Rule 34, Sec. 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.

FORM NO. 34-CV (Rule 34: Judgment on the Pleadings)

**JUDGMENT ON THE PLEADINGS**

Pursuant to Rule 34 of the Rules of Court, the court renders judgment on the pleadings in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Complaint alleged:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (quote material allegations in the Complaint).

The Answer admitted and/or failed to deny the foregoing allegations, as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (quote materials admissions and/or denials in the Answer).

Upon evaluation, the Court finds that the Answer failed to tender an issue or otherwise admitted the material allegations of the Complaint.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (discussion)

ACCORDINGLY, the judgment is rendered in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as follows \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 34, Sec. 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.

**Rule 34, Sec. 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.

**Rule 36, Sec. 1. Rendition of judgments and final orders.** — A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court.

FORM NO. 35-CV (Rule 35: Submission for Summary Judgment)

**O R D E R**

Pursuant to Rule 35 of the Rules of Court, upon a review of the supporting affidavits, depositions and/or admissions of the parties, the court  on its own initiative  upon Motion to Submit Case for Summary Judgment filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant):

DIRECTS that the entire case be submitted for summary judgment because there is no genuine issue as to any material fact.

DIRECTS that part of the case be submitted for summary judgment on the issue/s of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state submitted issue/s).

ACCORDINGLY, set the case for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify stage of proceeding) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) for the remaining issue/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state remaining issue/s).

DENIES the Motion on the ground that there is/are genuine issue/s of material fact/s to be adjudicated.

ACCORDINGLY, set the case for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify stage of proceeding) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 35, Sec. 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.

**Rule 35, Sec. 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)

**Rule 35, Sec. 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)

**Rule 35, Sec. 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)

**Rule 35, Sec. 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)

**Rule 35, Sec. 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[, i]t may, after hearing further adjudge the offending party or counsel guilty of contempt. (6a)

**Rule 18, Sec. 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*.

FORM NO. 35a-CV (Rule 35: Summary Judgment)

**SUMMARY JUDGMENT**

Pursuant to Rule 35 of the Rules of Court, the court renders summary judgment in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The following facts are not disputed:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state admissions).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) contends, however, that

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state arguments).

Upon evaluation, the Court finds no genuine issue as to any material fact and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party) is entitled to the relief/s prayed for.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (discussion)

ACCORDINGLY, the judgment is rendered in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as follows \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 35, Sec. 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 favor upon all or any part thereof.

**Rule 35, Sec. 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 favor as to all or any part thereof.

**Rule 35, Sec. 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.

**Rule 18, Sec. 2. Nature and [p]urpose.** – 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).

**Rule 18, Sec. 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.

**Rule 36, Sec. 1. Rendition of judgments and final orders.** — A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court.

FORM NO. 37-1-CV (Rule 37: Order on Motion for New Trial)

**O R D E R**

Pursuant to Rule 37, Section 1 of the Rules of Court, and acting on the Motion for New Trial filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), the court

GRANTS the Motion and sets aside the Decision/Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in whole  in part, on the ground of

fraud

accident

mistake

excusable negligence

which is supported by an Affidavit of Merit stating that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state substance of the ground).

newly discovered evidence which is supported by

judicial affidavits of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of witnesses), by whom such evidence is expected to be given.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title of duly authenticated documents), which are proposed to be introduced in evidence.

The court sets the new trial on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) for the

reception of evidence on the following issue/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

reception of testimony/ies of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify name/s of witness/es) that was/were not presented.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 37, Sec. 1. Grounds of and period for filing motion for new trial or reconsideration**. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

**Rule 37, Sec. 2. Contents of motion for new trial or reconsideration and notice thereof**. — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration shall point out a specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A pro forma motion for new trial or reconsideration shall not toll the reglementary period of appeal.

**Rule 37, Sec. 3. Action upon motion for new trial or reconsideration**. — The trial court may set aside the judgment or final order and grant a new trial, upon such terms as may be just, or may deny the motion. If the court finds that excessive damages have been awarded or that the judgment or final order is contrary to the evidence or law, it may amend such judgment or final order accordingly.

**Rule 37, Sec. 6. Effect of granting of motion for new trial**. — If a new trial is granted in accordance with the provisions of this Rules the original judgment or final order shall be vacated, and the action shall stand for trial de novo; but the recorded evidence taken upon the former trial, insofar as the same is material and competent to establish the issues, shall be used at the new trial without retaking the same.

**Rule 37, Sec. 7. Partial new trial or reconsideration**. — If the grounds for a motion under this Rule appear to the court to affect the issues as to only a part, or less than an of the matter in controversy, or only one, or less than all, of the parties to it, the court may order a new trial or grant reconsideration as to such issues if severable without interfering with the judgment or final order upon the rest.

**Rule 37, Sec. 8. Effect of order for partial new trial**. — When less than all of the issues are ordered retried, the court may either enter a judgment or final order as to the rest, or stay the enforcement of such judgment or final order until after the new trial.

**FORMS ON SPECIAL PROCEEDINGS**

FORM NO. 73-3 - SP (Rule 73, Section 3: Order for Apprehension and Imprisonment of Person Who Does Not Perform an Order or Judgment Rendered by the Court in the Exercise of its Probate Jurisdiction)

**O R D E R**

Pursuant to Rule 73, Section 3 of the Rules of Court, and for failure to perform the

Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state gist)

Judgment dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state gist),

the court, in the exercise of its probate jurisdiction, ORDERS the issuance of a Warrant of Arrest against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for imprisonment until performance/compliance with such  Order  Judgment.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 73, Sec. 3. Process.** - In the exercise of probate jurisdiction, Court of First Instance may issue warrants and processes necessary to compel the attendance of witnesses or to carry into effect their orders and judgments, and all other powers granted them by law. If a person does not perform an order of judgment rendered by a court in the exercise of its probate jurisdiction, it may issue a warrant for the apprehension and imprisonment of such person until he performs such order or judgment, or is released.

FORM NO. 73-3a -SP (Rule 73, Section 3: Order of Release of Person Arrested for Failure to Comply with Order or Judgment)

**O R D E R**

Pursuant to Rule 73, Section 3 of the Rules of Court, the court NOTES the compliance with the  Order  Judgment dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and ORDERS the release of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who was arrested pursuant to the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 73, Sec. 3. Process.** - In the exercise of probate jurisdiction, Courts of First Instance may issue warrants and processes necessary to compel the attendance of witnesses or to carry into effect their orders and judgments, and all other powers granted them by law. If a person does not perform an order of judgment rendered by a court in the exercise of its probate jurisdiction, it may issue a warrant for the apprehension and imprisonment of such person until he performs such order or judgment, or is released.

FORM NO. 75-2, 3 - SP (Rule 75: Order in Case of Failure of Custodian/Executor to Deliver/Submit Will)

**O R D E R**

Pursuant to Rule 75, Sections 2 and 3 of the Rules of Court,

the court ORDERS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (custodian/executor) to deliver the Will to the court within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (number of days) from receipt of this Order.

the court ORDERS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ executor) to signify acceptance or refusal of the trust within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (number of days) from receipt of this Order.

the court, ORDERS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (custodian/executor) to explain the failure to deliver the Will.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 75, Sec. 2. Custodian of will to deliver.** - The person who has custody of a will shall, within twenty (20) days after he knows of the death of the testator, deliver the will to the court having jurisdiction, or to the executor named in the will.

**Rule 75, Sec. 3. Executor to present will and accept or refuse trust.** - A person named as executor in a will shall, within twenty (20) days after he knows of the death of the testator, or within twenty (20) days after knows that he is named executor if he obtained such knowledge after the death of the testator, present such will to the court having jurisdiction, unless the will has reached the court in any other manner, and shall, within such period, signify to the court in writing his acceptance of the trust or his refusal to accept it.

**Rule 75, Sec. 4. Custodian and executor subject to fine for neglect.** - A person who neglects any of the duties required in the two last preceding sections without excuse satisfactory to the court shall be fined not exceeding two thousand pesos.

**Rule 76, Sec. 1. Who may petition for the allowance of the will.** - Any executor, devisee, or legatee named in a will, or any other person interested in the estate, may, at any time after the death of the testator, petition the court having jurisdiction to have the will allowed, whether the same be in his possession or not, or is lost or destroyed.

The testator himself may, during his lifetime, petition the court for the allowance of his will.

**Rule 76, Sec. 2. Contents of the petition.** - A petition for the allowance of a will must show, so far as known to the petitioner:

(a) The jurisdictional facts;

(b) The names, ages, and residences of the heirs, legatees, and devisees of the testator or decedent;

(c) The probable value and character of the property of the estate;

(d) The name of the person for whom letters are prayed;

(e) If the will has not been delivered to the court, the name of the person having custody of it.

But no defect in the petition shall render void the allowance of the will, or the issuance of letters testamentary or of administration with the will annexed.

FORM NO. 75-4,5 - SP (Rule 75: Order in Case of Failure of Custodian/Executor to Deliver/Submit Will)

**O R D E R**

Pursuant to Rule 75, Sections 4 and 5 of the Rules of Court, and for failure to comply with this court’s Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court,

finding the excuse of the custodian/executor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to be unsatisfactory, orders payment of a fine of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (not exceeding two thousand pesos) within a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

for failure to deliver the Will without reasonable cause, orders the commitment to prison of the custodian, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, until delivery of the Will. Let the corresponding commitment order be issued.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 75, Sec. 4. Custodian and executor subject to fine for neglect**. - A person who neglects any of the duties required in the two last preceding sections without excuse satisfactory to the court shall be fined not exceeding two thousand pesos.

**Rule 75, Sec. 5 Person retaining will may be committed.** – A person having custody of a will after the death of the testator who neglects without reasonable cause to deliver the same, when ordered so to do, to the court having jurisdiction, may be committed to prison and there kept until he delivers the will.

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FORM NO. 76-3,4 - SP (Rule 76, Sections 3 and 4: Order/Notice of Hearing for Probate of Will of Decedent)

**O R D E R**

Pursuant to Rule 76, Sections 3 and 4 of the Rules of Court, a Petition was filed for the probate of the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (testator) by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of petitioner), alleging \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state jurisdictional facts), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (names, ages and residences of designated or other known heirs, legatees and devisees of testator), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (probable value and character of the property of the estate), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the name of the person for whom letters are prayed), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the person in custody of the will).

ACCORDINGLY, notice is given that the Petition will be heard before this Court at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court address) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at which date and time, all persons interested may appear and show cause, if any, why the Petition should not be granted. Anyone appearing to contest the Will must state in writing the grounds for opposing its allowance, and serve a copy thereof on the petitioner and other parties interested in the estate.

Let this Order be published once a week for three consecutive weeks before the date of hearing in a newspaper of general circulation in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to be chosen by raffle, to be advanced by the petitioner and chargeable to the estate, and copies thereof sent to the executor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the known heir/s of the decedent and other persons who have an interest in the estate at their places of residence, by personal service at least ten (10) calendar days, or by registered mail at least twenty (20) calendar days, before the hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 76, Sec. 3. Court to appoint time for proving will.** **Notice thereof to be published.**- When a will is delivered to, or a petition for the allowance of a will is filed in, the court having jurisdiction, such court shall fix a time and place for proving the will when all concerned may appear to contest the allowance thereof, and shall cause notice of such time and place to be published three (3) weeks successively, previous to the time appointed, in a newspaper of general circulation in the province.

But no newspaper publication shall be made where the petition for probate has been filed by the testator himself.

**Rule 76, Sec. 4. Heirs, devisees, legatees, and executors to be notified by mail or personally.** - The court shall also cause copies of the notice of the time and place fixed for proving the will to be addressed to the designated or other known heirs, legatees, and devisees of the testator resident in the Philippines at their places of residence, and deposited in the post office with the postage thereon prepaid at least twenty (20) days before the hearing, if such places of residence be known. A copy of the notice must in like manner be mailed to the person named as executor, if he be not the petitioner; also, to any person named as co-executor not petitioning, if their places of residence be known. Personal service of copies of the notice at least ten (10) days before the day of hearing shall be equivalent to mailing.

If the testator asks for the allowance of his own will, notice shall be sent only to his compulsory heirs.

FORM NO. 76-3,4a - SP (Rule 76, Sections 3 and 4: Order/Notice of Hearing of Petition for Probate Filed by Testator Himself)

**O R D E R**

A Petition was filed by the testator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the probate of such testator’s Will, alleging that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state jurisdictional facts), the names, ages and residences of compulsory heirs, as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Pursuant to Rule 76, Sections 3 and 4 of the Rules of Court, NOTICE is hereby given that the Petition will be heard before this court at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court address) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at which date and time, all persons interested and concerned may appear and show cause, if any, why the Petition should not be granted. Anyone appearing to contest the Will must state in writing the grounds for opposing its allowance, and serve a copy thereof on the petitioner and other parties interested in the estate.

Let copies of this Order be sent to the compulsory heirs as named by the testator in the Will, by personal service at least ten (10) calendar days, or by registered mail at least twenty (20) calendar days, at their places of residence, before the hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 76, Sec. 3. Court to appoint time for proving will.** - Notice thereof to be published. When a will is delivered to, or a petition for the allowance of a will is filed in, the court having jurisdiction, such court shall fix a time and place for proving the will when all concerned may appear to contest the allowance thereof, and shall cause notice of such time and place to be published three (3) weeks successively, previous to the time appointed, in a newspaper of general circulation in the province.

But no newspaper publication shall be made where the petition for probate has been filed by the testator himself.

**Rule 76, Sec. 4. Heirs, devisees, legatees, and executors to be notified by mail or personally.** - The court shall also cause copies of the notice of the time and place fixed for proving the will to be addressed to the designated or other known heirs, legatees, and devisees of the testator resident in the Philippines at their places of residence, and deposited in the post office with the postage thereon prepaid at least twenty (20) days before the hearing, if such places of residence be known. A copy of the notice must in like manner be mailed to the person named as executor, if he be not be petitioner; also, to any person named as co-executor not petitioning, if their places of residence be known. Personal service of copies of the notice at least ten (10) days before the day of hearing shall be equivalent to mailing.

If the testator asks for the allowance of his own will, notice shall be sent only to his compulsory heirs.

**Rule 76, Sec. 10. Contestant to file grounds of contest.** - Anyone appearing to contest the will must state in writing his grounds for opposing its allowance, and serve a copy thereof on the petitioner and other parties interested in the estate.

FORM NO. 76 - SP (Rule 76: Decision for Allowance or Disallowance of Will)

**D E C I S I O N**

Pursuant to Rule 76 of the Rules of Court, and in furtherance of the admission of the Last Will and Testament of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator), the court had set the introduction of the testimonies of witnesses in support of the Will on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

The following witnesses \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state names of witnesses) testified on the manner of execution of the Will. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Discuss the testimonies of the witnesses).

The following witnesses \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state names of witnesses) testified to oppose the probate of the Will as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Discuss gist of the testimonies of the witnesses).

From the evidence adduced, the court:

ALLOWS the Will, having been executed and attested in the manner required by law and that formal requisites have been complied with in all respects.

ACCORDINGLY, the court allows the Will and admits the same to probate. Let a certificate of allowance be issued.

DISALLOWS the Will,

for failure to comply with the formalities required by law.

for the testator’s lack of testamentary capacity.

because it was executed under  duress,  fear,  threats,  undue and improper pressure and influence,  fraud,  trick,  mistake,  lack of intent to make a Will.

ACCORDINGLY, the court disallows the Will.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 76, Sec. 5. Proof at hearing.** **What sufficient in absence of contest**.- At the hearing, compliance with the provisions of the last two preceding sections must be shown before the introduction of testimony in support of the will. All such testimony shall be taken under oath and reduced to writing. If no person appears to contest the allowance of the will, the court may grant allowance thereof on the testimony of one of the subscribing witnesses only, if such witness testify that the will was executed as is required by law.

In the case of a holographic will, it shall be necessary that at least one witness who knows the handwriting and signature of the testator explicitly declare that the will and the signature are in the handwriting of the testator. In the absence of any such competent witness, and if the court deem it necessary, expert testimony may be resorted to.

**Rule 76, Sec. 9. Grounds for disallowing will.** — The will shall be disallowed in any of the following cases:

1. If not executed and attested as required by law;
2. If the testator was insane, or otherwise mentally incapable to make a will, at the time of its execution;
3. If it was executed under duress, or the influence of fear, or threats;
4. If it was procured by undue and improper pressure and influence, on the part of the beneficiary, or of some other person for his benefit;
5. If the signature of the testator was procured by fraud or trick, and he did not intend that the instrument should be his will at the time of fixing his signature thereto.

**Rule 76, Sec. 11. Subscribing witnesses produced or accounted for where will contested.** - If the will is contested, all the subscribing witnesses, and the notary in the case of wills executed under the Civil Code of the Philippines, if present in the Philippines and not insane, must be produced and examined, and the death, absence, or insanity of any of them must be satisfactorily shown to the court. If all or some of such witnesses are present in the Philippines but outside the province where the will has been filed, their deposition must be taken. If any or all of them testify against the due execution of the will, or do not remember having attested to it, or are otherwise of doubtful credibility, the will may, nevertheless, be allowed if the court is satisfied from the testimony of other witnesses and from all the evidence presented that the will was executed and attested in the manner required by law.

**Rule 76, Sec. 12. Proof where testator petitions for allowance of holographic will.** - Where the testator himself petitions for the probate of his holographic will and no contest in filed, the fact that he affirms that the holographic will and the signature are in his own handwriting, shall be sufficient evidence of the genuineness and due execution thereof. If the holographic will is contested, the burden of disproving the genuineness and due execution thereof shall be on the contestant. The testator may, in his turn, present such additional proof as may be necessary to rebut the evidence for the contestant.

# 

FORM NO. 76-7 - SP (Rule 76, Section 7: Order for Deposition of Subscribing Witnesses)

**O R D E R**

Pursuant to Rule 76, Section 7 of the Rules of Court, acting on the Motion to Take Deposition of subscribing witness/es who do not reside in this province (city), the court authorizes the taking of the deposition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of witness/es) before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deposition officer) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (place of deposition) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), and further authorizes that a photocopy of the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (testator) be made and presented to the witness/es, who may be asked such questions with respect to it including the handwriting of the testator and others as would be pertinent and competent if the original Will were present.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 76, Sec. 7. Proof when witnesses do not reside in province.** - If it appears at the time fixed for the hearing that none of the subscribing witnesses resides in the province, but that the deposition of one or more of them can be taken elsewhere, the court may, on motion, direct it to be taken, and may authorize a photographic copy of the will to be made and to be presented to the witness on his examination, who may be asked the same questions with respect to it, and to the handwriting of the testator and others, as would be pertinent and competent if the original will were present.

# 

FORM NO. 76-8 - SP (Rule 76, Section 8: Order for Admission of Evidence When Subscribing Witnesses Not Available)

**O R D E R**

Pursuant to Rule 76, Section 8 of the Rules of Court, as the subscribing witness/es \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of witness/es) to the execution of the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator) is/are either:

dead,

insane,

non-residents of the Philippines,

the court sets the reception on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) of the testimony of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of other witness/es) to prove

the sanity of the testator.

the due execution of the Will.

proof of the handwriting of

the testator

the subscribing witness/es \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 76, Sec. 8. Proof when witnesses dead or insane or do not reside in the Philippines.** - If it appears at the time fixed for the hearing that the subscribing witnesses are dead or insane, or that none of them resides in the Philippines, the court may admit the testimony of other witnesses to prove the sanity of the testator, and the due execution of the will; and as evidence of the execution of the will, it may admit proof of the handwriting of the testator and of the subscribing witnesses, or of any of them.

# 

FORM NO. 77-2 - SP (Rule 77, Section 2: Order of Hearing for Allowance of Will Proved Outside the Philippines)

**O R D E R**

Pursuant to Rule 77, Sections 1 and 2 of the Rules of Court, a Petition was filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of executor or other person interested), for the allowance of the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator), which has been previously proved and allowed in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state foreign country), with the attached copy of the Will and the order or decree of the allowance thereof, both duly authenticated.

The Petition is set for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at which time, all persons interested may appear and show cause why the Petition should not be granted.

Let this Order be published once a week for three (3) consecutive weeks before the date of hearing, in a newspaper of general circulation to be chosen by raffle to be advanced by the petitioner and chargeable to the estate, and copies thereof sent by registered mail to the known heir/s of the decedent and other persons who have an interest in the estate at their places of residence, at least twenty (20) calendar days before the hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 77, Sec. 1. Will proved outside Philippines may be allowed here.** - Wills proved and allowed in a foreign country, according to the laws of such country, may be allowed, filed, and recorded by the proper Court of First Instance in the Philippines.

**Rule 77, Sec. 2. Notice of hearing for allowance.** - When a copy of such will and of the order or decree of the allowance thereof, both duly authenticated, are filed with a petition for allowance in the Philippines, by the executor or other person interested, in the court having jurisdiction, such court shall fix a time and place for the hearing, and cause notice thereof to be given as in case of an original will presented for allowance.

**Rule 76, Sec. 3. Court to appoint time for proving will.** - Notice thereof to be published. When a will is delivered to, or a petition for the allowance of a will is filed in, the court having jurisdiction, such court shall fix a time and place for proving the will when all concerned may appear to contest the allowance thereof, and shall cause notice of such time and place to be published three (3) weeks successively, previous to the time appointed, in a newspaper of general circulation in the province.

But no newspaper publication shall be made where the petition for probate has been filed by the testator himself.

**Rule 76, Sec. 4. Heirs, devisees, legatees, and executors to be notified by mail or personally.** - The court shall also cause copies of the notice of the time and place fixed for proving the will to be addressed to the designated or other known heirs, legatees, and devisees of the testator resident in the Philippines at their places of residence, and deposited in the post office with the postage thereon prepaid at least twenty (20) days before the hearing, if such places of residence be known. A copy of the notice must in like manner be mailed to the person named as executor, if he be not be petitioner; also, to any person named as co-executor not petitioning, if their places of residence be known. Personal service of copies of the notice at least ten (10) days before the day of hearing shall be equivalent to mailing.

If the testator asks for the allowance of his own will, notice shall be sent only to his compulsory heirs.

# 

FORM NO. 77-3 - SP (Rule 77, Section 3: Decision for Allowance or Disallowance of Will Previously Allowed in a Foreign Country)

**D E C I S I O N**

Pursuant to Rule 77, Section 3 of the Rules of Court, acting on the Petition for Allowance of the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator), the court:

ALLOWS the Petition and admits the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, considering that it was proven and admitted to probate in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state foreign court and jurisdiction), as shown in the duly authenticated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Order or Decree of Allowance dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_).

ACCORDINGLY, let a Certificate of Allowance issue and be recorded.

DISALLOWS the Petition

for failure to comply with the formalities required by law.

for the testator’s lack of testamentary capacity.

because the Will was executed under  duress,  fear,  threats,  undue and improper pressure and influence,  fraud,  trick,  mistake,  lack of intent to make a Will.

ACCORDINGLY, the court disallows the Will.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 77, Sec. 1. Will proved outside Philippines may be allowed here.** - Wills proved and allowed in a foreign country, according to the laws of such country, may be allowed, filed, and recorded by the proper Court of First Instance in the Philippines.

**Rule 77, Sec. 2. Notice of hearing for allowance.** - When a copy of such will and of the order or decree of the allowance thereof, both duly authenticated, are filed with a petition for allowance in the Philippines, by the executor or other person interested, in the court having jurisdiction, such court shall fix a time and place for the hearing, and cause notice thereof to be given as in case of an original will presented for allowance.

**Rule 77, Sec. 3. When will allowed, and effect thereof.** - If it appears at the hearing that the will should be allowed in the Philippines, the court shall so allow it, and a certificate of its allowance, signed by the judge, and attested by the seal of the court, to which shall be attached a copy of the will, shall be filed and recorded by the clerk, and the will shall have the same effect as if originally proved and allowed in such court.

**Rule 132, Sec. 19. Classes of Documents.** — For the purpose of their presentation evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to the entered therein.

All other writings are private.

**Rule 132, Sec. 24. Proof of official record.** — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

**Rule 132, Sec. 25. What attestation of copy must state.** — Whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

Additionally, the rule is that there is no judicial notice of any foreign law. As any other fact, it must be alleged and proved. If the foreign law is not properly pleaded or proved, the presumption of identity or similarity of the foreign law to our own laws, otherwise known as processual presumption, applies. (*Continental Micronesia, Inc. vs. Basso*, G.R. Nos. 178382-83, September 23, 2015.)

**Apostille Convention (Hague Convention of October 5, 1961)**

**Article 1**

The present Convention shall apply to public documents which have been executed in the territory of one Contracting State and which have to be produced in the territory of another Contracting State.

For the purposes of the present Convention, the following are deemed to be public documents:

a) documents emanating from an authority or an official connected with the courts or tribunals of the

State, including those emanating from a public prosecutor, a clerk of a court or a process-server (huissier de justice);

b) administrative documents;

c) notarial acts;

d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures. However, the present Convention shall not apply:

a) to documents executed by diplomatic or consular agents;

b) to administrative documents dealing directly with commercial or customs operations.

**Article 2**

Each Contracting State shall exempt from legalisation documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalisation means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

**Article 3**

The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalisation.

**Article 4**

The certificate referred to in the first paragraph of Article 3 shall be placed on the document itself or on an allonge; it shall be in the form of the model annexed to the present Convention.

It may, however, be drawn up in the official language of the authority which issues it. The standard terms appearing therein may be in a second language also. The title Apostille (Convention de La Haye du 5 Octobre 1961) shall be in the French language.

**Article 5**

The certificate shall be issued at the request of the person who has signed the document or of any bearer.

When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

The signature, seal and stamp on the certificate are exempt from all certification.

# 

FORM NO. 78-4, 5, 6 - SP (Rule 78, Sections 4, 5, and 6; Rule 81, Section 1: Order for Issuance of Letters Testamentary or of Administration)

**O R D E R**

Pursuant to Rule 78, Sections 4, 5, and 6 and Rule 81, Section 1 of the Rules of Court, the court directs the issuance of

Letters Testamentary

Letters of Administration

with full authority to take possession of all property of the estate in any province in which it may be situated and to perform all other acts necessary for its preservation, to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s), who is/are qualified to act as

Executor

Administrator

of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the deceased), subject to acceptance.

The executor/administrator shall post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, within fifteen (15) calendar days from notice. The bond shall be conditioned on the performance by the executor/administrator of the duties pursuant to Rules 83, 84, and 85.

The executor is exempted from posting a bond pursuant to the will of the testator.

The executor/administrator shall:

1. make and return, within three (3) months, a true and complete inventory of the goods, chattels, rights, credits and estate of the deceased which shall come to the possession or knowledge of the executor/administrator or possession of any other person;
2. administer the same according to the Will of the testator and the Rules;
3. render a true and just account of the administration within one (1) year from receipt of Letters Testamentary/of Administration, and every three (3) months thereafter and at any other time when required by the Court until the estate is wholly settled; and
4. perform all orders as the court directs.

This Order is issued despite the testimonies of the following witnesses who opposed the probate of the Will: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the names of the witnesses and discuss the gist of their testimonies) because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (cite reasons in support of the decision).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 78, Sec. 4. Letters testamentary issued when will allowed.** - When a will has been proved and allowed, the court shall issue letters testamentary thereon to the person named as executor therein, if he is competent, accepts the trust, and gives bond as required by these rules.

**Rule 78, Sec. 5. Where some coexecutors disqualified others may act.** - When all of the executors named in a will can not act because of incompetency, refusal to accept the trust, or failure to give bond, on the part of one or more of them, letters testamentary may issue to such of them as are competent, accept and give bond, and they may perform the duties and discharge the trust required by the will.

**Rule 78, Sec. 6. When and to whom letters of administration granted.** — If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate, administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;

(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other person, it may be granted to one or more of the principal creditors, if may be granted to one or more of the principal creditors, if competent and willing to serve;

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

**Rule 81, Sec. 1. Bond to be given before issuance of letters; Amount; Conditions.** - Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows:

(a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

(b) To administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

(c) To render a true and just account of his administration to the court within one (1) year, and at any other time when required by the court;

(d) To perform all orders of the court by him to be performed.

**Rule 81, Sec. 2. Bond of executor where directed in will.** When further bond required. - If the testator in his will directs that the executor serve without bond, or with only his individual bond, he may be allowed by the court to give bond in such sum and with such surety as the court approves conditioned only to pay the debts of the testator; but the court may require of the executor a further bond in case a change in his circumstances, or for other sufficient cause, with the conditions named in the last preceding section.

**Rule 81, Sec. 3. Bonds of joint executors and administrators**. - When two or more persons are appointed executors or administrators the court may take a separate bond from each, or a joint bond from all.

**Rule 83, Sec. 1. Inventory and appraisal to be returned within three months.** — Within three (3) months after his appointment every executor or administrator shall return to the court a true inventory and appraisal of all real and personal estate of the deceased which has come into his possession or knowledge. In the appraisement of such estate, the court may order one or more of the inheritance tax appraisers to give his or their assistance.

**Rule 83, Sec. 2. Certain articles not to be inventoried.** — The wearing apparel of the surviving husband or wife and minor children., the marriage bed and bedding, and such provisions and other articles as will necessarily be consumed in the substinence of the family of the deceased, under the direction of the court, shall not be considered as assets, nor administered as such, and shall not be included in the inventory.

**Rule 83, Sec. 3. Allowance to widow and family.** — The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom, under the direction of the court, such allowance as are provided by law.

**Rule 84, Sec. 1. Executor or administrator to have access to partnership books and property.** How right enforced. — The executor or administrator of the estate of a deceased partner shall at all times have access to, and may examine and take copies of, books and papers relating to the partnership business, and make examine and make invoices of the property belonging to such partnership; and the surviving partner or partners, on request, shall exhibit to him all such books, papers, and property in their hands or control. On the written application of such executor or administrator, the court having jurisdiction of the estate may order any such surviving partner or partners to freely permit the exercise of the rights, and to exhibit the books, papers, and property, as in this section provided, and may punish any partner failing to do so for contempt.

**Rule 84, Sec. 2. Executor or administrator to keep buildings in repair.** — An executor or administrator shall maintain in tenable repair the houses and other structures and fences belonging to the estate, and deliver the same in such repair to the heirs or devisees when directed so to do by the court.

**Rule 84, Sec. 3. Executor or administrator to retain whole estate to pay debts, and to administer estate not willed.** — An executor or administrator shall have the right to the possession and management of the real as well as the personal estate of the deceased so long as it is necessary for the payment of the debts and the expenses of administration.

**Rule 85, Sec. 8. When executor or administrator to render account.** - Every executor or administrator shall render an account of his administration within one (1) year from the time of receiving letters testamentary or of administration, unless the court otherwise directs because of extensions of time for presenting claims against, or paying the debts of, the estate, or for disposing of the estate; and he shall render such further accounts as the court may require until the estate is wholly settled.

# 

FORM NO. 79 - SP (Rule 79: Decision for the Issuance of Letters of Administration)

**D E C I S I O N**

Pursuant to Rule 79 of the Rules of Court, in the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court set the date, time and place of hearing, and ordered the service of such notice of hearing for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date of hearing) on persons who have an interest in the estate, as well as the publication thereof once a week for three consecutive weeks in a newspaper of general circulation chosen by raffle.

The compliance with the requirement of publication having been shown, and there is

no opposition to the Petition.

an Opposition to the Petition filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of oppositor).

a claim by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of oppositor), who appeared, for the issuance of Letters of Administration on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Hearing was conducted and the following evidence were presented:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (State testimonial and documentary evidence)

The court is satisfied that

the decedent left no Will

there is no competent and willing executor

the competent administrator/s failed to appear after notice and/or claim the issuance of Letters of Administration

and finds \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the person to be appointed) entitled to the administration of the estate of the decedent.

ACCORDINGLY, the court GRANTS the Petition for the issuance of Letters of Administration. Let Letters of Administration for the estate of the deceased \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) be issued to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ upon filing of a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The bond shall be conditioned on the Administrator’s compliance with the following:

1. to make and return within three (3) months a true and complete inventory of the goods, chattels, rights, credits and estate of the deceased which shall come to the Administrator’s possession or knowledge or to the possession of any other person;
2. to administer the same according to the Will of the testator and the Rules;
3. to render true and just account of his/her/its administration within one (1) year from receipt of Letters of Administration, and every three (3) months thereafter and at any other time when required by the court until the estate is wholly settled; and
4. to perform all orders as the court directs.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 79, Sec. 1. Opposition to issuance of letters testamentary; Simultaneous petition for administration.** - Any person interested in a will may state in writing the grounds why letters testamentary should not issue to the persons named therein executors, or any of them, and the court, after hearing upon notice, shall pass upon the sufficiency of such grounds. A petition may, at the same time, be filed for letters of administration with the will annexed.

**Rule 79, Sec. 5. Hearing and order for letters to issue.** - At the hearing of the petition, it must first be shown that notice has been given as hereinabove required, and thereafter the court shall hear the proofs of the parties in support of their respective allegations, and if satisfied that the decedent left no will, or that there is no competent and willing executor, it shall order the issuance of letters of administration to the party best entitled thereto.

**Rule 79, Sec. 6. When letters of administration granted to any applicant.** - Letters of administration may be granted to any qualified applicant, though it appears that there are other competent persons having better right to the administration, if such persons fail to appear when notified and claim the issuance of letters to themselves.

**Rule 81, Sec. 1. Bond to be given before issuance of letters; Amount; Conditions.** - Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows:

(a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

(b) To administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

(c) To render a true and just account of his administration to the court within one (1) year, and at any other time when required by the court;

(d) To perform all orders of the court by him to be performed.

**Rule 84. Sec. 1. Executor or administrator to have access to partnership books and property. How right enforced.** - The executor or administrator of the estate of a deceased partner shall at all times have access to, and may examine and take copies of, books and papers relating to the partnership business, and make examine and make invoices of the property belonging to such partnership; and the surviving partner or partners, on request, shall exhibit to him all such books, papers, and property in their hands or control. On the written application of such executor or administrator, the court having jurisdiction of the estate may order any such surviving partner or partners to freely permit the exercise of the rights, and to exhibit the books, papers, and property, as in this section provided, and may punish any partner failing to do so for contempt.

# 

FORM NO. 79-2,3 - SP (Rule 79, Sections 2 and 3: Order/Notice of Hearing of Petition for Letters of Administration)

**O R D E R**

Pursuant to Rule 79, Sections 2 and 3 of the Rules of Court, a Petition was filed praying for the issuance of Letters of Administration to petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Petitioner alleges, among others, that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state jurisdictional facts), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (names, ages and residence of the heirs, and the names and residences of the creditors of decedent), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the probable value and character of the property of the estate), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the name of the person for whom Letters of Administration are prayed).

Set the Petition for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at which date and time, all persons interested and concerned may appear and show cause, if any, why the petition/opposition should not be granted.

ACCORDINGLY, let this Order be published once a week for three consecutive weeks before the date of hearing in a newspaper of general circulation to be chosen by raffle to be advanced by the petitioner and chargeable to the estate, and copies thereof sent to the known heir/s of the decedent and other persons who have an interest in the estate at their places of residence, by personal service at least ten (10) calendar days, or by registered mail at least twenty (20) calendar days, before the hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 79, Sec. 1. Opposition to issuance of letters testamentary; Simultaneous petition for administration.** - Any person interested in a will may state in writing the grounds why letters testamentary should not issue to the persons named therein executors, or any of them, and the court, after hearing upon notice, shall pass upon the sufficiency of such grounds. A petition may, at the same time, be filed for letters of administration with the will annexed.

**Rule 79, Sec. 2. Contents of petition for letters of administration.** - A petition for letters of administration must be filed by an interested person and must show, so far as known to the petitioner:

(a) The jurisdictional facts;

(b) The names, ages, and residences of the heirs, and the names and residences of the creditors, of the decedent

(c) The probable value and character of the property of the estate;

(d) The name of the person for whom letters of administration are prayed.

But no defect on the petition shall render void the issuance of letters of administration.

**Rule 79, Sec. 3. Court to set time for hearing. Notice thereof.** - When a petition for letters of administration is filed in the court having jurisdiction, such court shall fix a time and place for hearing the petition, and shall cause notice thereof to be given to the known heirs and creditors of the decedent, and to any other persons believed to have an interest in the estate, in the manner provided in Sections 3 and 4 of Rule 76.

**Rule 79, Sec. 4. Opposition to petition for administration**. — Any interested person may, by filing a written opposition, contest the petition on the ground of the incompetency of the person for whom letters are prayed therein, or on the ground of the contestant's own right to the administration, and may pray that letters issue to himself, or to any competent person or person named in the opposition.

**Rule 79, Sec. 5. Hearing and order for letters to issue.** - At the hearing of the petition, it must first be shown that notice has been given as hereinabove required, and thereafter the court shall hear the proofs of the parties in support of their respective allegations, and if satisfied that the decedent left no will, or that there is no competent and willing executor, it shall order the issuance of letters of administration to the party best entitled thereto.

# 

FORM NO. 80-1 - SP (Rule 80, Section 1 in relation to Rule 81, Section 4: Order for Appointment of Special Administrator Where There is Delay in Granting Letters Testamentary or of Administration)

**O R D E R**

Pursuant to Rule 80, Section 1 in relation to Rule 81, Section 4 of the Rules of Court, considering the delay in granting the Letters  Testamentary  of Administration, the court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) as Special Administrator upon posting of a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount).

The oath-taking shall be on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), upon submission of the bond.

The bond shall be conditioned on the Special Administrator’s compliance with the following:

1. to make and return within three (3) months a true and complete inventory of the goods, chattels, rights, credits and estate of the deceased which shall come to the Administrator’s possession or knowledge, and will deliver the same to the person appointed as Executor or Administrator, or such other person as may be authorized to receive them.
2. to administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court.
3. to render true and just account of his/her/its administration within one (1) year from receipt of Letters of Administration, and every three (3) months thereafter and at any other time when required by the court until the estate is wholly settled; and
4. to perform all orders as the court directs.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 80, Sec. 1. Appointment of special administrator.**- When there is delay in granting letters testamentary or of administration by any cause including an appeal from the allowance or disallowance of a will, the court may appoint a special administrator to take possession and charge of the estate of the deceased until the questions causing the delay are decided and executors or administrators appointed.

**Rule 80, Sec. 2. Powers and duties of special administrator.** - Such special administrator shall take possession and charge of goods, chattels, rights, credits, and estate of the deceased and preserve the same for the executor or administrator afterwards appointed, and for that purpose may commence and maintain suits as administrator. He may sell only such perishable and other property as the court orders sold. A special administrator shall not be liable to pay any debts of the deceased unless so ordered by the court.

**Rule 80, Sec. 3. When powers of special administrator cease; Transfer of effects; Pending suits.** - When letters testamentary or of administration are granted on the estate of the deceased, the powers of the special administrator shall cease, and he shall forthwith deliver to the executor or administrator the goods, chattels, money, and estate of the deceased in his hands. The executor or administrator may prosecute to final judgment suits commenced by such special administrator.

**Rule 81, Sec. 1. Bond to be given before issuance of letters; Amount; Conditions.** - Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows:

(a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

(b) To administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

(c) To render a true and just account of his administration to the court within one (1) year, and at any other time when required by the court;

(d) To perform all orders of the court by him to be performed.

**Rule 81, Sec. 4. Bond of special administrator.** - A special administrator before entering upon the duties of his trust shall give a bond, in such sum as the court directs, conditioned that he will make and return a true inventory of the goods, chattels, rights, credits, and estate of the deceased which come to his possession or knowledge, and that he will truly account for such as are received by him when required by the court, and will deliver the same to the person appointed executor or administrator, or to such other person as may be authorized to receive them.

# 

FORM NO. 80-2 - SP (Rule 80, Section 2: Order Authorizing Special Administrator to Sell Property or Pay Debts of the Deceased)

**O R D E R**

Pursuant to Rule 80, Section 2 of the Rules of Court, the Special Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is

allowed to sell the following property \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description), the proceeds from which shall be used for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify)

directed to pay the debt of the deceased in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 80, Sec. 2. Powers and duties of special administrator.** - Such special administrator shall take possession and charge of goods, chattels, rights, credits, and estate of the deceased and preserve the same for the executor or administrator afterwards appointed, and for that purpose may commence and maintain suits as administrator. He may sell only such perishable and other property as the court orders sold. A special administrator shall not be liable to pay any debts of the deceased unless so ordered by the court.

# 

FORM NO. 81-2 - SP (Rule 81, Section 2: Order Requiring Additional Bond of Executor)

**O R D E R**

Pursuant to Rule 81, Section 2 of the Rules of Court, the court:

allows \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), the executor, to give a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ conditioned only to pay the debts of the testator.

directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), the executor, to post an additional bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ because\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name other sufficient cause), within twenty (20) calendar days from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 81, Sec. 2. Bond of executor where directed in will. When further bond required.** - If the testator in his will directs that the executor serve without bond, or with only his individual bond, he may be allowed by the court to give bond in such sum and with such surety as the court approves conditioned only to pay the debts of the testator; but the court may require of the executor a further bond in case a change in his circumstances, or for other sufficient cause, with the conditions named in the last preceding section.

The additional bond may be fixed in the order granting the petition of the executor for letters testamentary

# 

FORM NO. 82-1 - SP (Rule 82, Section 1: Order for the Revocation of Administration Due to Discovery and Allowance of Will)

**O R D E R**

Pursuant to Rule 82, Section 1 of the Rules of Court, the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator) was proven and allowed in a Decision dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The antecedent proceedings were as follows:

The intestate settlement proceedings were initiated on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date). \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of administrator) was appointed as administrator due to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state circumstances surrounding the appointment of the administrator).

However, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of testator) was discovered through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state circumstances relating to the discovery of the will). Consequently, the Will was probated in court through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state how the incident was brought before the court and any relevant events that intervened from the appointment of the administrator to the probate of the will).

Therefore, the court revokes the Letters of Administration previously granted to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of administrator), who is directed to surrender the same to this court and to render a final account thereon within thirty (30) calendar days from notice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 82, Sec. 1. Administration revoked if will discovered; Proceedings thereupon**. - If after letters of administration have been granted on the estate of a decedent as if he had died intestate, his will is proved and allowed by the court, the letters of administration shall be revoked and all powers thereunder cease, and the administrator shall forthwith surrender the letters to the court, and render his account within such time as the court directs. Proceedings for the issuance of letters testamentary or of administration under the will shall be as hereinbefore provided.

**Rule 79, Sec. 2. Contents of petition for letters of administration.** - A petition for letters of administration must be filed by an interested person and must show, so far as known to the petitioner:

(a) The jurisdictional facts;

(b) The names, ages, and residences of the heirs, and the names and residences of the creditors, of the decedent

(c) The probable value and character of the property of the estate;

(d) The name of the person for whom letters of administration are prayed.

But no defect on the petition shall render void the issuance of letters of administration.

\* The testate proceedings take precedence over intestate proceedings. The administrator whose authority is revoked should still be made to render a final accounting and the intestate court must notify the testate court.

\* *The judge is reminded not to release the bond until the final accounting is approved.*

FORM NO. 82-2 - SP (Rule 82, Section 2: Order for Removal or Acceptance of Resignation of Executor or Administrator)

**O R D E R**

Pursuant to Rule 82, Section 2 of the Rules of Court, the court has determined that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of Executor/ Administrator) has

neglected to render an account within the period prescribed by the Rules or as directed by the court.

neglected to settle the estate according to law.

failed to comply with an Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or Judgment dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the court.

failed to perform a duty expressly provided by the Rules or as directed by the court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify).

absconded \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details).

been found to be insane as shown in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (refer to Medical Certificate or Court Order).

become incapable or unsuitable to discharge the trust \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give details).

died on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), as evidenced by the Death Certificate.

resigned on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), as evidenced by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

ACCORDINGLY, the Court

NOTES the death of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) Executor / Administrator  Joint Executor/ Administrator of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

REMOVES \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as the  Executor/ Administrator  Joint Executor/Administrator of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

ACCEPTS the resignation of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as the  Executor/Administrator  Joint Executor/ Administrator of the Estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

In view of  death,  resignation, removal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the Executor/ Administrator or Joint Executor/ Administrator)

Letters Testamentary/ of Administration is issued to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Executor/ Administrator or  to a new Joint Executor/Administrator, upon the posting of a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the remaining Joint Executor/ Administrator, may administer the estate alone.

The oath-taking shall be on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), upon submission of a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 82, Sec. 2. Court may remove or accept resignation of executor or administrator; Proceedings upon death, resignation, or removal.** - If an executor or administrator neglects to render his account and settle the estate according to law, or to perform an order or judgment of the court, or a duty expressly provided by these rules, or absconds, or becomes insane, or otherwise incapable or unsuitable to discharge the trust, the court may remove him, or, in its discretion, may permit him to resign. When an executor or administrator dies, resigns, or is removed the remaining executor or administrator may administer the trust alone, unless the court grants letters to someone to act with him. If there is no remaining executor or administrator, administration may be granted to any suitable person.

FORM NO. 83-1 - SP (Rule 83, Section 1: Order Authorizing Assistance of Tax Appraiser in the Appraisal of the Estate)

**O R D E R**

Pursuant to Rule 83, Section 1 of the Rules of Court, to make possible the submission of a true inventory and appraisal of the real and personal estate of the deceased in the possession of the  Executor  Administrator, the court ORDERS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of appraiser) to assist in the appraisement of such estate.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 83, Sec. 1. Inventory and appraisal to be returned within three months.** - When three (3) months after his appointment every executor or administrator shall return to the court a true inventory and appraisal of all the real and personal estate of the deceased which has come into his possession or knowledge. In the appraisement of such estate, the court may order one or more of the inheritance tax appraisers to give his or their assistance.

FORM NO. 83-3 - SP (Rule 83, Section 3: Order Authorizing the Allowance for the Widow/Widower and Family During the Settlement of the Estate)

**O R D E R**

Pursuant to Rule 83, Section 3 of the Rules of Court, the court ALLOWS the widow/widower, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) and the minor or incapacitated children, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) to receive the allowance in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state amount) during the settlement of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 83, Sec. 3. Allowance to widow and family.** - The widow and minor or incapacitated children of a deceased person, during the settlement of the estate, shall receive therefrom, under the direction of the court, such allowance as are provided by law.

FORM NO. 84-1 - SP (Rule 84, Section 1: Order to Allow Executor/Administrator Access to Partnership Books and Property)

**O R D E R**

Pursuant to Rule 84, Section 1 of the Rules of Court, acting on the written application of the  Executor  Administrator of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deceased partner) for access to partnership books and property, the court ORDERS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of surviving partner or partners) to allow him/her at all times to have access to, examine and take copies, of books and papers relating to the partnership business, as well as examine and make invoices of the property belonging to such partnership, and to exhibit to him/her, for the purpose, all such books, papers and property in their control.

Failure on the part of the partner concerned to allow access, examination or copying of the said books and papers may be a ground for contempt.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 84, Sec. 1. Executor or administrator to have access to partnership books and property; How right enforced.** - The executor or administrator of the estate of a deceased partner shall at all times have access to, and may examine and take copies of, books and papers relating to the partnership business, and may examine and make invoices of the property belonging to such partnership; and the surviving partner or partners, on request, shall exhibit to him all such books, papers, and property in their hands or control. On the written application of such executor or administrator, the court having jurisdiction of the estate may order any such surviving partner or partners to freely permit the exercise of the rights, and to exhibit the books, papers, and property, as in this section provided, and may punish any partner failing to do so for contempt.

FORM NO. 84-2 - SP (Rule 84, Section 2: Order for the Maintenance of Building in Tenantable Repair)

**O R D E R**

Pursuant to Rule 84, Section 2 of the Rules of Court, the court ORDERS the  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to maintain in tenantable repair the houses and other structures and fences belonging to the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) and deliver the same in such repair to the heirs and devisees.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 84, Sec. 2. Executor or administrator to keep buildings in repair.** - An executor or administrator shall maintain in tenantable repair the houses and other structures and fences belonging to the estate, and deliver the same in such repair to the heirs or devisees when directed so to do by the court.

FORM NO. 85-4 -SP (Rule 85, Section 4: Order for Execution/Administrator to Account for Income from Realty)

**O R D E R**

Pursuant to Rule 85, Section 4 of the Rules of Court, and considering that the Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is using or occupying \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify part of the real estate being used or occupied), and there being no agreement therefor between him/her and the parties interested, the court ORDERS him/her to account for the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as income due from such realty within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ days from receipt of the Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 85, Sec. 4. Accountable for income from realty used by him.** - If the executor or administrator uses or occupies any part of the real estate himself, he shall account for it as may be agreed upon between him and the parties interested, or adjusted by the court with their assent; and if the parties do not agree upon the sum to be allowed, the same may be ascertained by the court, whose determination in this respect shall be final.

FORM NO. 85-5 - SP (Rule 85, Section 5: Order in Case of Neglect or Delay of Executor/Administrator to Raise or Pay Money)

**O R D E R**

Pursuant to Rule 85, Section 5 of the Rules of Court, and considering that the  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

neglected or unreasonably delayed raising money by collecting the debts or unreasonably delayed selling the real or personal estate of the deceased, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details

neglected to pay over the money he/she/it has in his/her/its hands, and the value of the estate is thereby lessened or unnecessary cost or interest accrues, or the persons interested suffer loss, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details)

committed other acts/omissions such as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details),

causing a change in the value of the estate before and after the acts/omissions of the  Executor  Administrator, from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state value of the estate before act/omission), to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state value of the estate after act/omission), the court declares the same as waste, thus charging the damage sustained against his/her/its account, for which he/she/it shall be liable on his/her/its bond.

Set this case for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) for the determination of the amount of damages sustained.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 85, Sec. 5. Accountable if he neglects or delays to raise or pay money.** - When an executor or administrator neglects or unreasonably delays to raise money, by collecting the debts or selling the real or personal estate of the deceased, or neglects to pay over the money he has in his hands, and the value of the estate is thereby lessened or unnecessary cost or interest accrues, or the persons interested suffer loss, the same shall be deemed waste and the damage sustained may be charged and allowed against him in his account, and he shall be liable therefor on his bond.

FORM NO. 85-9,10 - SP (Order for the Examination with Respect to Account Rendered)

**O R D E R**

Pursuant to Rule 85, Sections 9 and 10 of the Rules of Court, the court,  on its own initiative  upon motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant),  considering the objections of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), in order to determine the correctness of the account submitted on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the Executor/Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, sets the examination under oath on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) of the

heir/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, legatee/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, distributee/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or creditor/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

executor/administrator.

Furnish all interested parties with this Order through

personal service.

publication, at least fifteen (15) calendar days, before the scheduled hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 85, Sec. 9. Examination on oath with respect to account.** - The court may examine the executor or administrator upon oath with respect to every matter relating to any account rendered by him, and shall so examine him as to the correctness of his account before the same is allowed, except when no objection is made to the allowance of the account and its correctness is satisfactorily established by competent proof. The heirs, legatees, distributees, and creditors of the estate shall have the same privilege as the executor or administrator of being examined on oath of any matter relating to an administration.

**Rule 85, Sec. 10. Account to be settled on notice.** — Before the account of an executor or administrator is allowed, notice shall be given to persons interested of the time and place of examining and allowing the same; and such notice may be given personally to such persons interested or by advertisement in a newspaper or newspapers, or both, as the court directs.

# 

# FORM NO. 86-1 - SP (Notice for Creditors to file Claims Against Estate)

**O R D E R**

Pursuant to Rule 86, Section 1 of the Rules of Court, after having issued Letters  Testamentary  of Administration in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), the court  on its own initiative  upon motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), gives notice to all persons having money claims against the decedent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name) to file the same with this court, within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ months, which shall not be more than twelve (12) nor less than six (6) months after the date of the first publication of the notice.

Let a copy of this Order be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province or chartered city, and to be posted for the same period where the decedent last resided in four (4) public places in the province, city or municipality and in two (2) public places in the barangay.

Within fifteen (15) calendar days from service of a copy of the claim, the executor or administrator, heirs, legatees, devisees shall file an Answer admitting or denying the claim specifically, and setting forth the substance of the matters which are relied upon to support the admission or denial. The executor or administrator in the Answer shall allege in offset any claim which the decedent before death had against the claimant.

All claims not filed within the time provided shall be barred. A claim by the decedent against the claimant which is not pleaded in the Answer shall also be barred.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 1. Notice to creditors to be issued by court.** — Immediately after granting letters testamentary or of administration, the court shall issue a notice requiring all persons having money claims against the decedent to file them in the office of the clerk of said court.

**Rule 86, Sec. 2.Time within which claims shall be filed.** — In the notice provided in the preceding section, the court shall state the time for the filing of claims against the estate, which shall not be more than twelve (12) not less than six (6) months after the date of the first publication of the notice. However, at any time before an order of distribution is entered, on application of a creditor who has failed to file his claim within the previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one (1) month.

**Rule 86, Sec. 3. Publication of notice to creditors.** — Every executor or administrator shall, immediately after the notice to creditors is issued, cause the same to be published three (3) weeks successively in a newspaper of general circulation in the province, and to be posted for the same period in four public places in the province and in two public places in the municipality where the decedent last resided.

**Rule 86, Sec. 4. Filing of copy of printed notice.** — Within ten (10) days after the notice has been published and posted in accordance with the preceding section, the executor or administrator shall file or cause to be filed in the court a printed copy of the notice accompanied with an affidavit setting forth the dates of the first and last publication thereof and the name of the newspaper in which the same is printed.

**Rule 86, Sec. 5. Claims which must be filed under the notice.** If not filed, barred; exceptions. — All claims for money against the decent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value.

**Rule 86, Sec. 10. Answer of executor or administrator.** Offsets —Within fifteen (15) days after service of a copy of the claim on the executor or administrator, he shall file his answer admitting or denying the claim specifically, and setting forth the admission or denial. If he has no knowledge sufficient to enable him to admit or deny specifically, he shall state such want of knowledge. The executor or administrator in his answer shall allege in offset any claim which the decedent before death had against the claimant, and his failure to do so shall bar the claim forever. A copy of the answer shall be served by the executor or administrator on the claimant. The court in its discretion may extend the time for filing such answer.

*\*Should the locality where the decedent last resided be a component city or municipality within a particular province, posting in the said city or municipality should be counted as compliance with the posting in four (4) public places within the province.*

*If the decedent last resided in a chartered city, posting in the said city should be counted as compliance with the posting in four (4) public places within the province.*

*Posting in the barangay should be counted as compliance with the posting in two (2) public places within the municipality where the decedent last resided.*

FORM NO. 86-2 - SP (Allowance of Late Claim)

**O R D E R**

Pursuant to Rule 86, Section 2 of the Rules of Court, before an order of distribution is entered, acting on a Motion [to Admit Claim] filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), allegedly a creditor of the decedent, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), praying for the allowance of its claim against the decedent in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court:

ALLOWS the claim to be filed within one (1) month from notice because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state cause of allowance),

subject to the following conditions \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

DISALLOWS the filing of the claim because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 2. Time within which claims shall be filed.** — In the notice provided in the preceding section, the court shall estate the time for the filing of claims against the estate, which shall not be more than twelve (12) nor less than six (6) months after the date of the first publication of the notice. However, at any time before an order of distribution is entered, on application of a creditor who has failed to file his claim within the previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one (1) month.

FORM NO. 86-5 - SP (Action on Uncontested and Contested Claims Against the Estate)

**O R D E R**

Pursuant to Rule 86, Section 5 of the Rules of Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of claimant) filed a claim against the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for:

a contract for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, express or implied, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details),

funeral expenses,

expenses for the last sickness of the decedent,

judgment for money against the decedent,

as evidenced by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

Considering that the claim of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is

uncontested, as it has been admitted entirely by the Executor/Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name),

the claim in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is approved.

the claim is set for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) with notice to the heirs, legatees, or devisees.

contested, as it has been opposed by the executor, administrator, heirs, legatees, or devisees, the claim is set for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) with notice to the heirs, legatees, or devisees.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 5. Claims which must be filed under the notice. If not filed, barred; exceptions.** — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value.

**Rule 86, Sec. 10. Answer of executor or administrator.** Offsets —Within fifteen (15) days after service of a copy of the claim on the executor or administrator, he shall file his answer admitting or denying the claim specifically, and setting forth the admission or denial. If he has no knowledge sufficient to enable him to admit or deny specifically, he shall state such want of knowledge. The executor or administrator in his answer shall allege in offset any claim which the decedent before death had against the claimant, and his failure to do so shall bar the claim forever. A copy of the answer shall be served by the executor or administrator on the claimant. The court in its discretion may extend the time for filing such answer.

**Rule 86, Sec. 11. Disposition of admitted claim.** — Any claim admitted entirely by the executor or administrator shall immediately be submitted by the clerk to the court who may approve the same without hearing; but the court, in its discretion, before approving the claim, may order that known heirs, legatees, or devisees be notified and heard. If upon hearing, an heir, legatees, or devisee opposes the claim, the court may, in its discretion, allow him fifteen (15) days to file an answer to the claim in the manner prescribed in the preceding section.

**Rule 86, Sec. 12. Trial of contested claim.** — Upon the filing of an answer to a claim, or upon the expiration of the time for such filing, the clerk of court shall set the claim for trial with notice to both parties. The court may refer the claim to a commissioner.

FORM NO. 86-5a- SP (Order for Appointment of Special Administrator with respect to Claim of Executor or Administrator Against Estate)

**O R D E R**

Pursuant to Rule 86, Section 5 of the Rules of Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) has pleaded a counterclaim against the estate of the decedent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court). Under the final and executory Decision dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in said case, the counterclaim was granted.

ACCORDINGLY, the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ adjudged in Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to be owing to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of claimant) shall be deducted from the true balance of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as though the claim had been presented directly before this court.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 5. Claims which must be filed under the notice. If not filed, barred; exceptions.** — All claims for money against the decedent, arising from contract, express or implied, whether the same be due, not due, or contingent, all claims for funeral expenses and expense for the last sickness of the decedent, and judgment for money against the decedent, must be filed within the time limited in the notice; otherwise they are barred forever, except that they may be set forth as counterclaims in any action that the executor or administrator may bring against the claimants. Where an executor or administrator commences an action, or prosecutes an action already commenced by the deceased in his lifetime, the debtor may set forth by answer the claims he has against the decedent, instead of presenting them independently to the court as herein provided, and mutual claims may be set off against each other in such action; and if final judgment is rendered in favor of the defendant, the amount so determined shall be considered the true balance against the estate, as though the claim had been presented directly before the court in the administration proceedings. Claims not yet due, or contingent, may be approved at their present value.

FORM NO. 86-8 - SP (Order for Appointment of Special Administrator with respect to Claim of Executor or Administrator Against Estate)

**O R D E R**

Pursuant to Rule 86, Section 8 of the Rules of Court, considering that the  Administrator  Executor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) has given notice in writing dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of his/her/its claim against the estate he/she/it represents, the court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) as Special Administrator who, with respect only to such claim, shall have the same power and be subject to the same liability as the general Administrator/Executor in the settlement of the other claims.

The  Administrator  Executor is directed to pay the Special Administrator the necessary funds to defend against such claim.

The Special Administrator is directed to post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, conditioned on the following:

1. that he/she/it will make and return within three (3) months a true and complete inventory of the goods, chattels, rights, credits and estate of the deceased which shall come to his / her possession or knowledge or to the possession of any other person for him/her.
2. that he/she/it will deliver the same to the person appointed Executor or Administrator, or such other person as may be authorized to receive them.
3. that he/she will administer the same according to the Will of the testator and the Rules.
4. that he/she/it will render true and just account of his/her/its administration within one (1) year from receipt of Letters Testamentary/of Administration, and every three (3) months thereafter and at any other time when required by the court until the estate is wholly settled.
5. that he/she/it will perform all orders as the court directs to be performed by him/her.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 8. Claim of executor or administrator against an estate.** - If the executor or administrator has a claim against the estate he represents, he shall give notice thereof, in writing, to the court, and the court shall appoint a special administrator, who shall, in the adjustment of such claim, have the same power and be subject to the same liability as the general administrator or executor in the settlement of other claims. The court may order the executor or administrator to pay to the special administrator necessary funds to defend such claim.

**Rule 81, Sec. 1. Bond to be given before issuance of letters; Amount; Conditions.** - Before an executor or administrator enters upon the execution of his trust, and letters testamentary or of administration issue, he shall give a bond, in such sum as the court directs, conditioned as follows:

(a) To make and return to the court, within three (3) months, a true and complete inventory of all goods, chattels, rights, credits, and estate of the deceased which shall come to his possession or knowledge or to the possession of any other person for him;

(b) To administer according to these rules, and, if an executor, according to the will of the testator, all goods, chattels, rights, credits, and estate which shall at any time come to his possession or to the possession of any other person for him, and from the proceeds to pay and discharge all debts, legacies, and charges on the same, or such dividends thereon as shall be decreed by the court;

(c) To render a true and just account of his administration to the court within one (1) year, and at any other time when required by the court;

(d) To perform all orders of the court by him to be performed.

**Rule 81, Sec. 4. Bond of special administrator.** - A special administrator before entering upon the duties of his trust shall give a bond, in such sum as the court directs, conditioned that he will make and return a true inventory of the goods, chattels, rights, credits, and estate of the deceased which come to his possession or knowledge, and that he will truly account for such as are received by him when required by the court, and will deliver the same to the person appointed executor or administrator, or to such other person as may be authorized to receive them.

FORM NO. 86-13-SP (Judgment on Claim Against Estate)

**D E C I S I O N**

Pursuant to Rule 86, Section 13 of the Rules of Court, the claim of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) against the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is:

APPROVED as the same is supported by the following evidence \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (enumerate evidence), which the court finds sufficient.

The executor or administrator is directed to pay the judgment amount upon execution, which shall not create any lien upon the property of the estate, or give to the judgment creditor any priority of payment.

DISAPPROVED for lack of sufficient evidence to support the same, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (explain).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 86, Sec. 13. Judgment appealable.** — The judgment of the court approving or disapproving a claim, shall be filed with the record of the administration proceedings with notice to both parties, and is appealable as in ordinary cases. A judgment against the executor or administrator shall be that he pay, in due course of administration, the amount ascertained to be due, and it shall not create any lien upon the property of the estate, or give to the judgment creditor any priority of payment.

**Rule 86, Sec. 14. Costs.** — When the executor or administrator, in his answer, admits and offers to pay part of a claim, and the claimant refuses to accept the amount offered in satisfaction of his claim, if he fails to obtain a more favorable judgment, he cannot recover costs, but must pay to the executor or administrator costs from the time of the offer. Where an action commenced against the deceased for money has been discontinued and the claim embraced therein presented as in this rule provided, the prevailing party shall be allowed the costs of his action up to the time of its discontinuance.

FORM NO. 88-3 - SP (Order for Sale of Real Estate for Payment of Debts and Expenses Considering Insufficiency of the Personal Property of Estate)

**O R D E R**

Pursuant to Rule 88, Section 3 of the Rules of Court, considering that the personal estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent)  is not sufficient for the payment of debts and expenses  the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe personal property) is detrimental to the participants of the estate, the Court AUTHORIZES the

sale

mortgage

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (other encumbrance)

of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe real property and extent of the sale, mortgage, or encumbrance) in an amount not less than \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state minimum amount). The proceeds of the sale shall be used for payment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe debt or expense) in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of payee) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Let copy of this Order be sent to all interested parties.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88, Sec. 3. Personalty first chargeable for debts, then realty.** - The personal estate of the deceased not disposed of by will shall be first chargeable with the payment of debts and expenses; and if said personal estate is not sufficient for that purpose, or its sale would redound to the detriment of the participants of the estate, the whole of the real estate not disposed of by will, or so much thereof as is necessary, may be sold, mortgaged, or otherwise encumbered for that purpose by the executor or administrator, after obtaining the authority of the court therefor. Any deficiency shall be met by contributions in accordance with the provisions of section 6 of this rule.

*\*The Court may encourage interested parties to participate in the disposition of the property by looking for buyers or mortgagees.*

FORM NO. 88-4 - SP (Order to Retain Property to Meet Contingent Claims)

**O R D E R**

Pursuant to Rule 88, Section 4 of the Rules of Court, finding the contingent claim filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of claimant) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to be valid as evidenced by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details), the  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is DIRECTED to retain \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (property of the decedent) to pay such contingent claim when it becomes absolute, or if the estate is insolvent, sufficient to pay a portion equal to the dividend of the other creditors.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88, Sec. 4. Estate to be retained to meet contingent claims.** — If the court is satisfied that a contingent claim duly filed is valid, it may order the executor or administrator to retain in his hands sufficient estate to pay such contingent claim when the same becomes absolute, or if the estate is insolvent, sufficient to pay a portion equal to the dividend of the other creditors.

**Rule 88, Sec. 5. How contingent claim becoming absolute in two years allowed and paid. Action against distributees later.** — If such contingent claim becomes absolute and is presented to the court, or to the executor or administrator, within two (2) years from the time limited for other creditors to present their claims, it may be allowed by the court if not disputed by the executor or administrator and, if disputed, it may be proved and allowed or disallowed by the court as the facts may warrant. If the contingent claim is allowed, the creditor shall receive payment to the same extent as the other creditors if the estate retained by the executor or administrator is sufficient. But if the claim is not so presented, after having become absolute, within said two (2) years, and allowed, the assets retained in the hands of the executor or administrator, not exhausted in the payment of claims, shall be disturbed by the order of the court to the persons entitled to the same; but the assets so distributed may still be applied to the payment of the claim when established, and the creditor may maintain an action against the distributees to recover the debt, and such distributees and their estates shall be liable for the debt in proportion to the estate they have respectively received from the property of the deceased.

FORM NO. 88-4, 5- SP (Judgment on Contingent Claims Which Became Absolute)

**O R D E R**

Pursuant to Rule 88, Sections 4 and 5 of the Rules of Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of claimant) filed a contingent claim against the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state nature of contingent claim) as evidenced by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

Considering that such contingent claim has been alleged by the claimant to have become absolute and

was presented within the two (2) year period from the time limited for other creditors to present their claims, and is

uncontested, as it has been admitted entirely by the  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), the claim in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is APPROVED. The creditor shall receive payment to the same extent as the other creditors if the estate retained by the executor or administrator is sufficient pursuant to the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

contested, as it has been opposed by the executor, administrator, heirs, legatees, or devisees, the claim is set for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) with notice to the heirs, legatees, or devisees.

was not presented after having become absolute within the two (2) year period from the time limited for other creditors to present their claims, and is

uncontested, as it has been admitted entirely by the  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), the claim in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is APPROVED. The assets retained in the hands of the executor or administrator, not exhausted in the payment of claims, shall be distributed to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name).

contested, as it has been opposed by the executor, administrator, heirs, legatees, or devisees, the claim is set for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) with notice to the heirs, legatees, or devisees.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88, Sec. 4. Estate to be retained to meet contingent claims.** — If the court is satisfied that a contingent claim duly filed is valid, it may order the executor or administrator to retain in his hands sufficient estate to pay such contingent claim when the same becomes absolute, or if the estate is insolvent, sufficient to pay a portion equal to the dividend of the other creditors.

**Rule 88, Sec. 5. How contingent claim becoming absolute in two years allowed and paid. Action against distributees later.** — If such contingent claim becomes absolute and is presented to the court, or to the executor or administrator, within two (2) years from the time limited for other creditors to present their claims, it may be allowed by the court if not disputed by the executor or administrator and, if disputed, it may be proved and allowed or disallowed by the court as the facts may warrant. If the contingent claim is allowed, the creditor shall receive payment to the same extent as the other creditors if the estate retained by the executor or administrator is sufficient. But if the claim is not so presented, after having become absolute, within said two (2) years, and allowed, the assets retained in the hands of the executor or administrator, not exhausted in the payment of claims, shall be disturbed by the order of the court to the persons entitled to the same; but the assets so distributed may still be applied to the payment of the claim when established, and the creditor may maintain an action against the distributees to recover the debt, and such distributees and their estates shall be liable for the debt in proportion to the estate they have respectively received from the property of the deceased.

FORM NO. 88-6 - SP (Order of Hearing to Fix Contributive Shares of Devisees, Legatees or Heirs for the Payment of Debts and Expenses)

**O R D E R**

Pursuant to Rule 88, Section 6 of the Rules of Court, considering that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the heirs, devisees, and legatees of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) took possession of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the decedent’s property) before the debts and expenses of the estate have been settled, set the case for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) to determine how much and in what manner each of them shall contribute for the payment of such debts and expenses.

Let a copy of this Order be sent to all interested persons.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88 Sec. 6. Court to fix contributive shares where devisees, legatees, or heirs have been in possession.** - Where devisees, legatees, or heirs have entered into possession of portions of the estate before the debts and expenses have been settled and paid, and have become liable to contribute for the payment of such debts and expenses, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of their several liabilities, and order how much and in what manner each person shall contribute, and may issue execution as circumstances require.

FORM NO. 88-11,12 - SP (Orders Relating to Payment of Debts; Orders Relating to Payment of Debts Where Appeals are Taken)

**O R D E R**

Pursuant to Rule 88, Sections 11 and 12 of the Rules of Court, the court DIRECTS the

payment of the debts of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) and the distribution of its assets among the creditors whose claims are allowed and not subject of appeal, under the following schedule:

|  |  |  |
| --- | --- | --- |
| Creditor | | Amount/Assets to be Distributed |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |

The  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is given \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (period) within which to pay the debts of the deceased and/or to distribute the assets to the creditors, and report the same to the court.

suspension of the payment of the debts of the estate in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in view of the appeal taken by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of creditor). The  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is directed to retain sufficient assets in case the appeal is resolved in the creditor’s favor.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88, Sec. 11. Order for payment of debts.** - Before the expiration of the time limited for the payment of the debts, the court shall order the payment thereof, and the distribution of the assets received by the executor or administrator for that purpose among the creditors, as the circumstances of the estate require and in accordance with the provisions of this rule.

**Rule 88, Sec. 12. Orders relating to payment of debts where appeal is taken.** - If an appeal has been taken from a decision of the court concerning a claim, the court may suspend the order for the payment of the debts or may order the distribution among the creditors whose claims are definitely allowed, leaving in the hands of the executor or administrator sufficient assets to pay the claim disputed and appealed. When a disputed claim is finally settled the court having jurisdiction of the estate shall order the same to be paid out of the assets retained to the same extent and in the same proportion with the claims of other creditors.

**Rule 88, Sec. 15. Time for paying debts and legacies fixed, or extended after notice, within what periods.** - On granting letters testamentary or administration the court shall allow to the executor or administrator a time for disposing of the estate and paying the debts and legacies of the deceased, which shall not, in the first instance, exceed one (1) year; but the court may, on application of the executor or administrator and after hearing on such notice of the time and place therefor given to all persons interested as it shall direct, extend the time as the circumstances of the estate require not exceeding six (6) months for a single extension nor so that the whole period allowed to the original executor or administrator shall exceed two (2) years.

FORM NO. 88-13 - SP (Order for Subsequent Distribution of Assets)

**O R D E R**

Pursuant to Rule 88, Section 13 of the Rules of Court, considering that the debts of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent) were not fully paid on the first distribution, as provided in the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court directs the distribution of the other assets among the creditors whose claims remain unsatisfied, under the following schedule:

|  |  |  |
| --- | --- | --- |
| Creditor | | Amount/Assets to be Distributed |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |

The  Executor  Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is given \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (period) within which to pay the debts of the deceased and/or to distribute the assets to the creditors, and to report the same to the court.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 88, Sec. 13. When subsequent distribution of assets ordered.** - If the whole of the debts are not paid on the first distribution, and if the whole assets are not distributed, or other assets afterwards come to the hands of the executor or administrator, the court may from time to time make further orders for the distribution of assets.

FORM NO. 89-1 - SP (Order of Sale of Personalty of Decedent)

**O R D E R**

Pursuant to Rule 89, Section 1 of the Rules of Court, acting on the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (executor, administrator or interested person) for the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe personal property/ies) of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent), the court:

GRANTS the Motion and directs the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe personal property/ies) in the minimum amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, finding that such sale is necessary for the purpose of paying \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state debt, expense of administration, legacy, or cost of preserving the property).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state grounds).

DENIES the Motion and, upon the written offer of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of interested person) to post a bond for the payment of the debts, expenses of administration and legacies. The court directs the offeror to post the bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ within fifteen (15) calendar days from receipt of this Order. The bond shall be for the security of the creditors, as well as of the executor or administrator, and may be prosecuted for the benefit of either.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 89, Sec. 1. Order of sale of personalty.** - Upon the application of the executor or administrator, and on written notice to the heirs and other persons interested, the court may order the whole or a part of the personal estate to be sold, if it appears necessary for the purpose of paying debts, expenses of administration, or legacies, or for the preservation of the property.

**Rule 89, Sec. 3. Persons interested may prevent such sale, etc., by giving bond.** - No such authority to sell, mortgage, or otherwise encumber real or personal estate shall be granted if any person interested in the estate gives a bond, in a sum to be fixed by the court, conditioned to pay the debts, expenses of administration, and legacies within such time as the court directs; and such bond shall be for the security of the creditors, as well as of the executor or administrator, and may be prosecuted for the benefit of either.

FORM NO. 89-2 - SP (Order Authorizing Sale, Mortgage or Other Encumbrance of Realty to Pay Debts and Legacies)

**O R D E R**

Pursuant to Rule 89, Section 2 of the Rules of Court, acting on the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (executor/administrator or interested person) for the  sale  mortgage  encumbrance of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe real property/ies), the court, after due notice and hearing,

GRANTS the Motion and orders the

sale

mortgage

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe encumbrance)

of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the whole or so much of the real property/ies), finding that such is necessary because

the personal estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is not sufficient to pay the debts, expenses of administration, and legacies.

the sale of the personal estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ may injure the business or other interests of those interested in the estate.

the testator has not made sufficient provision for the payment of such debts, expenses, and legacies.

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

DENIES the Motion and, upon the written offer of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of interested person) to post a bond for the payment of the debts and expenses of administration, authorizes the posting of such bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ within fifteen (15) calendar days from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 89, Sec. 2. When court may authorize sale, mortgage, or other encumbrance of realty to pay debts and legacies through personalty not exhausted.** - When the personal estate of the deceased is not sufficient to pay the debts, expenses of administration, and legacies, or where the sale of such personal estate may injure the business or other interests of those interested in the estate, and where a testator has not otherwise made sufficient provision for the payment of such debts, expenses, and legacies, the court, on the application of the executor or administrator and on written notice to the heirs, devisees, and legatees residing in the Philippines, may authorize the executor or administrator to sell, mortgage, or otherwise encumber so much as may be necessary of the real estate, in lieu of personal estate, for the purpose of paying such debts, expenses, and legacies, if it clearly appears that such sale, mortgage, or encumbrances would be beneficial to the persons interested; and if a part cannot be sold, mortgaged, or otherwise encumbered without injury to those interested in the remainder, the authority may be for the sale, mortgage, or other encumbrance of the whole of such real estate, or so much thereof as is necessary or beneficial under the circumstances.

**Rule 89, Sec. 3. Persons interested may prevent such sale, etc., by giving bond.** - No such authority to sell, mortgage, or otherwise encumber real or personal estate shall be granted if any person interested in the estate gives a bond, in a sum to be fixed by the court, conditioned to pay the debts, expenses of administration, and legacies within such time as the court directs; and such bond shall be for the security of the creditors, as well as of the executor or administrator, and may be prosecuted for the benefit of either.

**Rule 89, Sec. 6. When court may authorize sale, mortgage, or other encumbrance of realty acquired on execution or foreclosure.** - The court may authorize an executor or administrator to sell, mortgage, or otherwise encumber real estate acquired by him on execution or foreclosure sale, under the same circumstances and under the same regulations as prescribed in this rule for the sale, mortgage, or other encumbrance of other real estate.

FORM NO. 89-4 - SP (Rule 89, Section 4: Order Authorizing Sale When Beneficial to Interested Persons)

**O R D E R**

Pursuant to Rule 89, Section 4 of the Rules of Court, acting on the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (executor/administrator or interested person) for the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies) of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), the court, after due notice and hearing,

GRANTS the Motion and directs the executor or administrator to sell the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the whole or part of the property/ies), finding that such will be beneficial to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of heirs, devisees, legatees, and other interested persons), although not necessary to pay debts, legacies, or expenses of administration and it not being inconsistent with the provisions of the Will, if any, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state grounds).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 89, Sec. 4. When court may authorize sale of estate as beneficial to interested persons; Disposal of proceeds.** - When it appears that the sale of the whole or a part of the real or personal estate, will be beneficial to the heirs, devisees, legatees, and other interested persons, the court may, upon application of the executor or administrator and on written notice to the heirs, devisees and legatees who are interested in the estate to be sold, authorize the executor or administrator to sell the whole or a part of said estate, although not necessary to pay debts, legacies, or expenses of administration; but such authority shall not be granted if inconsistent with the provisions of a will. In case of such sale, the proceeds shall be assigned to the persons entitled to the estate in the proper proportions.

**Rule 89, Sec. 6. When court may authorize sale, mortgage, or other encumbrance of realty acquired on execution or foreclosure.** - The court may authorize an executor or administrator to sell, mortgage, or otherwise encumber real estate acquired by him on execution or foreclosure sale, under the same circumstances and under the same regulations as prescribed in this rule for the sale, mortgage, or other encumbrance of other real estate.

FORM NO. 89-8 - SP (Order Authorizing Conveyance of Real Property)

**O R D E R**

Pursuant to Rule 89, Section 8 of the Rules of Court, acting on the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of executor, administrator, or interested party), after proof of service and/or publication as shown by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Process Server’s/Sheriff’s/Affidavit of Publication) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court:

GRANTS the Motion and directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of executor, administrator, or Clerk of Court) to convey \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe real property/ies or interest therein), finding that the deceased \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), in his/her/its lifetime, contracted to convey such real property/ies, or interest therein, to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of transferee) by virtue of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (contract or instrument). Let the conveyance be implemented according to

the original terms of the contract or instrument.

the modifications as agreed upon by the interested persons, as follows:

1. \_\_\_\_\_\_\_\_\_\_\_\_,

2. \_\_\_\_\_\_\_\_\_\_\_\_,

3. \_\_\_\_\_\_\_\_\_\_\_\_.

DENIES the Motion because

the assets in the hands of the executor or administrator will be reduced preventing the full payment of the debt or diminish a corresponding dividend of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of creditor/s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state other ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 89, Sec. 8. When a court may authorize conveyance or realty which deceased contracted to convey; Notice; Effect of deed.** - Where the deceased was in his lifetime under contract, binding in law, to deed real property, or an interest therein, the court having jurisdiction of the estate may, on application for that purpose, authorize the executor or administrator to convey such property according to such contract, or with such modifications as are agreed upon by the parties and approved by the court; and if the contract is to convey real property to the executor or administrator, the clerk of the court shall execute the deed. The deed executed by such executor, administrator, or clerk of court shall be as effectual to convey the property as if executed by the deceased in his lifetime; but no such conveyance shall be authorized until notice of the application for that purpose has been given personally or by mail to all persons interested, and such further notice has been given, by publication or otherwise, as the court deems proper; nor if the assets in the hands of the executor or administrator will thereby be reduced so as to prevent a creditor from receiving his full debt or diminish his dividend.

FORM NO. 90-1 - SP (Order for Distribution of Residue after Payment of Debts)

**O R D E R**

Pursuant to Rule 90, Section 1 of the Rules of Court, acting on the Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (executor/administrator or interested person), the court, after due notice and hearing,

GRANTS the Motion for the distribution of the residue of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of decedent), finding that there is no controversy as to who the lawful heirs of the deceased are or as to the distributive shares to which each of them is entitled, and

all debts, charges, and expenses chargeable to the estate have been paid,

although the debts, charges, and expenses chargeable have not yet been paid, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of distributee/s) shall post a bond in the sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ conditioned on the payment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify obligation) within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify period),

let the residue of the estate be distributed by the Executor/Administrator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) within ten (10) calendar days from receipt of this Order, as follows:

|  |  |  |
| --- | --- | --- |
| Heir or other Interested Person | | Share |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |

DENIES the Motion because

all debts, charges, and expenses chargeable to the estate have not been paid and the distributees refused to post a bond.

there is a controversy as to who the lawful heirs are.

there is a controversy as to the distributive shares to which each person is entitled under the law.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s.)

ACCORDINGLY, set the case for further hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 90, Sec. 1. When order for distribution of residue made.** - When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled to the same, naming them and the proportions, or parts, to which each is entitled, and such person may demand and recover their respective shares from the executor or administrator, or any other person having the same in his possession. If there is a controversy before the court as to who are the lawful heirs of the deceased person or as to the distributive shares to which each person is entitled under the law, the controversy shall be heard and decided as in ordinary cases.

No distribution shall be allowed until the payment of the obligations above mentioned has been made or provided for, unless the distributees, or any of them, give a bond, in a sum to be fixed by the court, conditioned for the payment of said obligations within such time as the court directs.

FORM NO. 91-1, 2 - SP (Order Setting the Hearing of Petition for Escheat)

**O R D E R**

Pursuant to Rule 91, Sections 1 and 2 of the Rules of Court, the Solicitor General filed a Petition on behalf of the Republic of the Philippines for the escheat of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deceased).

Finding the Petition to be sufficient in form and substance, the court sets the hearing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court address) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time which shall not be more than six [6] months after entry of order), at which date and time, all persons interested and concerned may appear and show cause, if any, why the Petition should not be granted.

Let this Order and a copy of the Petition be published for six (6) successive weeks prior to the date of the hearing in a newspaper of general circulation within the jurisdiction of the court, to be chosen by raffle at the expense of the estate.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 91, Sec. 1. When and by whom petition filed.** - When a person dies intestate, seized of real or personal property in the Philippines, leaving no heir or person by law entitled to the same, the Solicitor General or his representative in behalf of the Republic of the Philippines, may file a petition in the Court of First Instance of the province where the deceased last resided or in which he had estate, if he resided out of the Philippines, setting forth the facts, and praying that the estate of the deceased be declared escheated.

**Rule 91, Sec. 2. Order for hearing.** - If the petition is sufficient in form and substance, the court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, which date shall be not more than six (6) months after the entry of the order, and shall direct that a copy of the order be published before the hearing at least once a week for six (6) successive weeks in some newspaper of general circulation published in the province, as the court shall deem best. When a person dies intestate, seized of real or personal property in the Philippines, leaving no heir or person by law entitled to the same, the Solicitor General or his representative in behalf of the Republic of the Philippines, may file a petition in the Regional Trial Court of the province where the deceased last resided or in which he had estate, if he resided out of the Philippines, setting forth the facts, and praying that the estate of the deceased be declared escheated.

FORM NO. 91-1-SP (Judgment Granting Petition for Escheat)

**D E C I S I O N**

Pursuant to Rule 91 of the Rules of Court, this Petition of the Solicitor General for the escheat of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the deceased) was filed with the court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date).

In the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court set the Petition for hearing, and ordered the publication of a notice, for six (6) successive weeks prior to the date of hearing, in a newspaper of general circulation chosen by raffle.

Compliance with the requirement of publication having been shown, and finding after hearing that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the deceased) died intestate, seized of real and/or personal property in· the Philippines, leaving no heir or person entitled to the same, with no sufficient cause being shown to the contrary, the court declares the escheat of the estate of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the deceased), after payment of just debts and charges, and

assigns the personal property \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ municipality/city) where the deceased last resided in the Philippines.

assigns the real estate to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (municipality/city), in which the same is/are situated.

assigns the whole estate to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (municipality/city) in which it is located, the deceased not having resided in the Philippines.

orders the establishment of a permanent trust so that only income from the property \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description) shall be used for the benefit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name public school/s, public charitable institution/s or center/s) wherein such property/ies is/are located.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 91, Section 1. When and by whom petition filed**. — When a person dies intestate, seized of real property in the Philippines, leaving no heir or person by law entitled to the same, the Solicitor General or his representative in behalf of the Republic of the Philippines, may file a petition in the Court of First Instance of the province where the deceased last resided or in which he had estate, if he resided out of the Philippines, setting forth the facts, and praying that the estate of the deceased be declared escheated.

**Rule 91, Section 2. Order for hearing**. — If the petition is sufficient in form and substance, the court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, which date shall be not more than six (6) months after the entry of the order, and shall direct that a copy of the order be published before the hearing at least once a week for six (6) successive weeks in some newspaper of general circulation published in the province, as the court shall be deem best.

**Rule 91, Sec. 3. Hearing and judgment**. - Upon the satisfactory proof in open court on the date fixed in the order that such order has been published as directed and that the person died intestate, seized of real or personal property in the Philippines, leaving no heir or person entitled to the same, and no sufficient cause being shown to the contrary, the court shall adjudge that the estate of the deceased in the Philippines, after the payment of just debts and charges, shall escheat; and shall, pursuant to law, assign the personal estate to the municipality or city where he last resided in the Philippines, and the real estate to the municipalities or cities, respectively, in which the same is situated. If the deceased never resided in the Philippines, the whole estate may be assigned to the respective municipalities or cities where the same is located. Such estate shall be for the benefit of public schools, and public charitable institutions and centers in said municipalities or cities.

FORM NO. 98-1-SP (Order for Appointment of Trustee Named in the Will)

**O R D E R**

Pursuant to Rule 98, Section 1 of the Rules of Court, and acting on the Petition for Appointment of Trustee in order to carry into effect the

provisions of the Will of the late \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of deceased),

express trust created in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title of instrument) involving \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the property entrusted),

the Court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as trustee for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The trustee shall post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, conditioned on his/her/its compliance with Rule 98, Section 6 of the Rules of Court.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 98, Sec. 1. Where trustee appointed**. - A trustee necessary to carry into effect the provisions of a will or written instrument shall be appointed by the Court of First Instance in which the will was allowed if it be a will allowed in the Philippines, otherwise by the Court of First Instance of the province in which the property, or some portion thereof, affected by the trust is situated.

**Rule 98, Section 2. Appointment and powers of trustees under will. Executor of former trustee need not administer trust**. — If a testator has omitted in his will to appoint a trustee in the Philippines, and if such appointment is necessary to carry into effect the provisions of the will, the proper Court of First Instance may, after notice to all persons interested, appoint a trustee who shall have the same rights, powers, and duties, and in whom the estate shall vest, as if he had been appointed by the testator. No person succeeding to a trust as executor or administrator of a former trustee shall be required to accept such trust.

**Rule 98, Section 5. Trustee must file bond**. — Before entering on the duties of his trust, a trustee shall file with the clerk of the court having jurisdiction of the trust a bond in the amount fixed by the judge of said court, payable to the Government of the Philippines and sufficient and available for the protection of any party in interest, and a trustee who neglects to file such bond shall be considered to have declined or resigned the trust; but the court may until further order exempt a trustee under a will from giving a bond when the testator has directed or requested such exemption and may so exempt any trustee when all persons beneficially interested in the trust, being of full age, request the exemption. Such exemption may be cancelled by the court at any time and the trustee required to forthwith file a bond.

**Rule 98, Section 6. Conditions included in bond**. — The following conditions shall be deemed to be part of the bond whether written therein or not;

(a) That the trustee will make and return to the court, at such time as it may order, a true inventory of all the real and personal estate belonging to him as trustee, which at the time of the making of such inventory shall have come to his possession or knowledge;

(b) That he will manage and dispose of all such estate, and faithfully discharge his trust in relation thereto, according to law and the will of the testator or the provisions of the instrument or order under which he is appointed;

(c) That he will render upon oath at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, a true account of the property in his hands and the management and disposition thereof, and will render such other accounts as the court may order;

(d) That at the expiration of his trust he will settle his account in court and pay over and deliver all the estate remaining in his hands, or due from him on such settlement, to the person or persons entitled to thereto.

But when the trustee is appointed as a successor to a prior trustee, the court may dispense with the making and return of an inventory, if one has already been filed, and in such case the condition of the bond shall be deemed to be altered accordingly.

FORM NO. 98-2-SP (Appointment of Trustee Where Testator Omitted to Appoint a Trustee in His Will)

**O R D E R**

Pursuant to Rule 98, Section 2 of the Rules of Court, considering that the testator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has provided in the Will dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ / written instrument entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that certain portions of the estate shall be placed in trust, and in view of the omission in such Will/ written instrument to appoint a trustee in the Philippines, the court, after notice to all persons interested, namely, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as trustee to carry into effect the pertinent provisions of the Will/written instrument. The court further orders the appointed trustee to post a bond, within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days from receipt of this Order, in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, under the conditions prescribed in Rule 98, Section 6 of the Rules of Court.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 98, Sec. 1. Where trustee appointed**. - A trustee necessary to carry into effect the provisions of a will or written instrument shall be appointed by the Court of First Instance in which the will was allowed if it be a will allowed in the Philippines, otherwise by the Court of First Instance of the province in which the property, or some portion thereof, affected by the trust is situated.

**Rule 98, Sec. 2. Appointment and powers of trustee under will; Executor of former trustee need not administer trust**. - If a testator has omitted in his will to appoint a trustee in the Philippines, and if such appointment is necessary to carry into effect the provisions of the will, the proper Court of First Instance may, after notice to all persons interested, appoint a trustee who shall have the same rights, powers, and duties, and in whom the estate shall vest, as if he had been appointed by the testator. No person succeeding to a trust as executor or administrator of a former trustee shall be required to accept such trust.

**Rule 98, Section 5. Trustee must file bond**. — Before entering on the duties of his trust, a trustee shall file with the clerk of the court having jurisdiction of the trust a bond in the amount fixed by the judge of said court, payable to the Government of the Philippines and sufficient and available for the protection of any party in interest, and a trustee who neglects to file such bond shall be considered to have declined or resigned the trust; but the court may until further order exempt a trustee under a will from giving a bond when the testator has directed or requested such exemption and may so exempt any trustee when all persons beneficially interested in the trust, being of full age, request the exemption. Such exemption may be cancelled by the court at any time and the trustee required to forthwith file a bond.

**Rule 98, Section 6. Conditions included in bond**. — The following conditions shall be deemed to be part of the bond whether written therein or not;

(a) That the trustee will make and return to the court, at such time as it may order, a true inventory of all the real and personal estate belonging to him as trustee, which at the time of the making of such inventory shall have come to his possession or knowledge;

(b) That he will manage and dispose of all such estate, and faithfully discharge his trust in relation thereto, according to law and the will of the testator or the provisions of the instrument or order under which he is appointed;

(c) That he will render upon oath at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, a true account of the property in his hands and the management and disposition thereof, and will render such other accounts as the court may order;

(d) That at the expiration of his trust he will settle his account in court and pay over and deliver all the estate remaining in his hands, or due from him on such settlement, to the person or persons entitled to thereto.

But when the trustee is appointed as a successor to a prior trustee, the court may dispense with the making and return of an inventory, if one has already been filed, and in such case the condition of the bond shall be deemed to be altered accordingly.

***FORM NO. 98-3-SP (Appointment of New Trustee When a Trustee Under a Written Instrument Declines, Resigns, Dies or is Removed)***

**O R D E R**

Pursuant to Rule 98, Section 3 of the Rules of Court, considering that the trustee \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ under the express trust created under  the Will of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state title of written instrument)

declined the trust,

resigned as trustee,

died on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) as shown by the Certificate of Death,

was removed as trustee,

before the objects of the trust could be accomplished, and there being no adequate provision made therein for supplying the vacancy, the court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) as the new trustee for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description), and orders the former trustee (or his or her representatives or by the other remaining trustee) to make the conveyance of the trust estate to the newly named trustee, within thirty (30) calendar days from notice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 98, Sec. 3. Appointment and powers of new trustee under written instrument**. - When a trustee under a written instrument declines, resigns, dies, or is removed before the objects of the trust are accomplished, and no adequate provision is made in such instrument for supplying the vacancy, the proper Court of First Instance may, after due notice to all persons interested, appoint a new trustee to act alone or jointly with the others, as the case may be. Such new trustee shall have and exercise the same powers, rights, and duties as if he had been originally appointed, and the trust estate shall vest in him in like manner as it had vested or would have vested, in the trustee in whose place he is substituted; and the court may order such conveyance to be made by the former trustee or his representatives, or by the other remaining trustees, as may be necessary or proper to vest the trust estate in the new trustee, either alone or jointly with the others.

FORM NO. 98-4-SP (Order for Trustee Deriving Authority Abroad)

**O R D E R**

Pursuant to Rule 98, Section 4 of the Rules of Court, acting on the Petition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of petitioner) for the appointment of a trustee of the real property \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description) located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, within the court’s jurisdiction, after due notice to all interested parties, namely, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and considering that said property is held in trust for the petitioner/s, who is/are resident/s of the Philippines, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a trustee appointed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state foreign country), outside the Philippines, the court directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of trustee appointed abroad) to apply for appointment as trustee for such real property within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (period).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of trustee) is directed to file his/her compliance within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days from notice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 98, Sec. 4. Proceedings where trustee appointed abroad.** - When land in the Philippines is held in trust for persons resident here by a trustee who derives his authority from without the Philippines, such trustee shall, on petition filed in the Court of First Instance of province where the land is situated, and after due notice to all persons interested, be ordered to apply to the court for appointment as trustee; and upon his neglect or refusal to comply with such order, the court shall declare such trust vacant, and shall appoint a new trustee in whom the trust estate shall vest in like manner as if he had been originally appointed by such court.

FORM NO. 98-5 - SP (Rule 98, Section 5: Order for Exemption of Trustee from Bond)

**O R D E R**

Pursuant to Rule 98, Section 5 of the Rules of Court, considering that:

the testator \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)

all persons beneficially interested in the trust \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state names), being of legal age,

has/have requested the exemption of the trustee from giving a bond, the court GRANTS such exemption.

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of trustee) is exempted from the requirement of a bond but shall nevertheless comply with the duties and obligations under Rule 98.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 98, Sec. 5. Trustee must file bond.** — Before entering on the duties of his trust, a trustee shall file with the clerk of the court having jurisdiction of the trust a bond in the amount fixed by the judge of said court, payable to the Government of the Philippines and sufficient and available for the protection of any party in interest, and a trustee who neglects to file such bond shall be considered to have declined or resigned the trust; but the court may until further order exempt a trustee under a will from giving a bond when the testator has directed or requested such exemption and may so exempt any trustee when all persons beneficially interested in the trust, being of full age, request the exemption. Such exemption may be cancelled by the court at any time and the trustee required to forthwith file a bond.

**Rule 98, Sec. 6. Conditions included in bond**. - The following conditions shall be deemed to be a part of the bond whether written therein or not:

(a) That the trustee will make and return to the court, at such time as it may order, a true inventory of all the real and personal estate belonging to him as trustee, which at the time of the making of such inventory shall have come to his possession or knowledge;

(b) That he will manage and dispose of all such estate, and faithfully discharge his trust in relation thereto, according to law and the will of the testator or the provisions of the instrument or order under which he is appointed;

(c) That he will render upon oath at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, a true account of the property in his hands and of the management and disposition thereof, and will render such other accounts as the court may order;

(d) That at the expiration of his trust he will settle his accounts in court and pay over and deliver all the estate remaining in his hands, or due from him on such settlement, to the person or persons entitled thereto.

But when the trustee is appointed as a successor to a prior trustee, the court may dispense with the making and return of an inventory, if one has already been filed, and in such case the condition of the bond shall be deemed to be altered accordingly.

FORM NO. 102-3 - SP (Rule 102, Section 3: Order for Preliminary Citation)

**O R D E R**

Pursuant to Rule 102, Section 3 of the Rules of Court, considering that the illegality of the confinement of petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is not patent from the Petition, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of respondent) is DIRECTED to appear before the court within twenty-four (24) hours from receipt of this Order, to show cause why the privilege of the Writ of Habeas Corpus should not issue.

Let this preliminary citation be accompanied by a copy of the Petition and all its annexes.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Note:

**Rule 102, Sec. 3. Requisites of application therefor**. - Application for the writ shall be by petition signed and verified either by the party for whose relief it is intended, or by some person on his behalf, and shall set forth:

(a) That the person in whose behalf the application is made is imprisoned or restrained of his liberty;

(b) The officer or name of the person by whom he is so imprisoned or restrained; or, if both are unknown or uncertain, such officer or person may be described by an assumed appellation, and the person who is served with the writ shall be deemed the person intended;

(c) The place where he is so imprisoned or restrained, if known;

(d) A copy of the commitment or cause of detention of such person, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or restraint is without any legal authority, such fact shall appear.

FORM NO. 102-6-SP (Writ of Habeas Corpus)

**WRIT OF HABEAS CORPUS**

TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (respondent)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (address)

GREETINGS:

Pursuant to the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, copy of which is attached, you are commanded to produce the body and person of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name or description of person if the name is not known), alleged to be illegally detained at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state place of detention, or name of agency or person holding the person in custody), before this court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court) and to then and there explain the cause of the restraint.

All relevant documentary and other evidence in relation to this case shall be brought to Court at the said hearing.

ISSUED UNDER MY HAND AND THE SEAL OF THIS COURT this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 102, Section 1. To what habeas corpus extends**. — Except as otherwise expressly provided by law, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.

**Rule 102, Section 2. Who may grant the writ**. — The writ of habeas corpus may be granted by the Supreme Court, or any member thereof in the instances authorized by law, and if so granted it shall be enforceable anywhere in the Philippines, and may be made returnable before the court or any member thereof, or before a Court of First Instance, or any judge thereof for the hearing and decision on the merits. It may also be granted by a Court of First Instance, or a judge thereof, on any day and at any time, and returnable before himself, enforceable only within his judicial district.

**Rule 102, Section 3. Requisites of application therefor**. — Application for the writ shall be by petition signed and verified either by the party for whose relief it is intended, or by some person on his behalf, and shall set forth:

(a) That the person in whose behalf the application is made is imprisoned or restrained on his liberty;

(b) The officer or name of the person by whom he is so imprisoned or restrained; or, if both are unknown or uncertain, such officer or person may be described by an assumed appellation, and the person who is served with the writ shall be deemed the person intended;

(c) The place where he is so imprisoned or restrained, if known;

(d) A copy of the commitment or cause of detention of such person, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or restraint is without any legal authority, such fact shall appear.

**Rule 102, Sec. 6. To whom writ directed, and what to require**. - In case of imprisonment or restraint by an officer, the writ shall be directed to him, and shall command him to have the body of the person restrained of his liberty before the court or judge designated in the writ at the time and place therein specified. In case of imprisonment or restraint by a person not an officer, the writ shall be directed to an officer, and shall command him to take and have the body of the person restrained of his liberty before the court or judge designated in the writ at the time and place therein specified, and to summon the person by whom he is restrained then and there to appear before said court or judge to show the cause of the imprisonment or restraint.

**Rule 102, Sec. 7. How prisoner designated and writ served**. - The person to be produced should be designated in the writ by his name, if known, but if his name is not known he may be otherwise described or identified. The writ may be served in any province by the sheriff or other proper officer, or by a person deputed by the court or judge. Service of the writ shall be made by leaving the original with the person to whom it is directed and preserving a copy on which to make return of service. If that person cannot be found, or has not the prisoner in his custody, then the service shall be made on any other person having or exercising such custody.

**Rule 102, Sec. 9. Defect of form**. - No writ of habeas corpus can be disobeyed for defect of form, if it sufficiently appears therefrom in whose custody or under whose restraint the party imprisoned or restrained is held and the court or judge before whom he is to be brought.

FORM NO. 103-2-SP (Rule 103, Section 2: Order Amending Petition Caption)

**O R D E R**

Pursuant to Rule 103, Section 2 of the Rules of Court, considering that the caption of the Petition for Change of Name does not indicate the name asked for, the court amends the Petition to reflect the name asked for by the petitioner \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) in the case caption, thus “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” (state new caption).

Henceforth, the case caption shall be as amended.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 103, Sec. 2. Contents of petition.** - A petition for change of name shall be signed and verified by the person desiring his name changed, or some other person on his behalf, and shall set forth:

(a) That the petitioner has been a bona fide resident of the province where the petition is filed for at least three (3) years prior to the date of such filing;

(b) The cause for which the change of the petitioner's name is sought;

(c) The name asked for.

The reason for the rule is that the ordinary reader glances fleetingly at the caption of the published errors or the titles of the petition. Only if the caption or the title strikes him does the reader proceed to read on. The probability is great that the reader does not notice the other names and/or aliases of the applicant if these are mentioned only in the body of the order or petition. The non-inclusion of all the names and/or aliases of the applicant in the caption of the order or the title of the petition defeats the purpose of the required publication. (*Telmo vs. Republic*, 73 SCRA 29)

*\* The judge shall on his/her own initiative order the amendment of the caption of the Petition for Change of Name to include the name asked for, when not so indicated.*

FORM NO. 103-3-SP (Setting the Hearing on the Petition for Change of Name)

**O R D E R**

Pursuant to Rule 103, Section 3, Rules of Court, a Petition for Change of Name was filed for the change of the petitioner's name from “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” to “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”, alleging that:

1. the petitioner has been a resident of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the place where the Petition is filed, for, at least, three (3) years prior to the date of filing.
2. the change of name is sought because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).
3. the petitioner, henceforth, prays to be permitted to use the name “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”.

The Petition will be heard at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court address) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), at which date and time, all persons interested may appear and take part in the proceedings.

Let this Order be published, at least, once a week for three (3) successive weeks in a newspaper of general circulation to be chosen by raffle, the last publication of which must be more than four (4) months before the date of hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 103, Section 1. Venue**. — A person desiring to change his name shall present the petition to the Court of First Instance of the province in which he resides, or, in the City of Manila, to the Juvenile and Domestic Relations Court.

**Rule 103, Section 2. Contents of petition**. — A petition for change of name shall be signed and verified by the person desiring his name changed, or some other person on his behalf, and shall set forth:

(a) That the petitioner has been a bona fide resident of the province where the petition is filed for at least three (3) years prior to the date of such filing;

(b) The cause for which the change of the petitioner's name is sought;

(c) The name asked for.

**Rule 103, Sec. 3. Order for hearing**. - If the petition filed is sufficient in form and substance, the court, by an order reciting the purpose of the petition, shall fix a date and place for the hearing thereof, and shall direct that a copy of the order be published before the hearing at least once a week for three (3) successive weeks in some newspaper of general circulation published in the province, as the court shall deem best. The date set for the hearing shall not be within thirty (30) days prior to an election nor within four (4) months after the last publication of the notice.

**FORMS ON PROVISIONAL REMEDIES**

FORM NO. 57-1, 2, 3, 4, 5 – PR (Rule 57, Sections 1, 2, 3, 4 and 5: Order of Attachment)

**O R D E R**

Pursuant to Rule 57, the court  on *ex-parte* application  upon motion after notice and hearing, and considering the Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant/ person who personally knows the facts), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for additional factual basis)

GRANTS the motion, finding that a sufficient cause of action exists, and that there is no sufficient security for the claim sought to be enforced by the action, and that the amount due to the applicant, or the value of the property the possession of which he/she/it is entitled to recover, is as much as the sum for which the order is granted above all legal counterclaims, and that this is an action

for the recovery of a specified amount of money or damages, other than moral and exemplary, on a cause of action arising from law, contract, quasi-contract, delict or quasi-delict against a party who is about to depart from the Philippines with intent to defraud creditors,

for money or property embezzled or fraudulently misapplied or converted to his/her/its own use by a public officer, or an officer of a corporation, or an attorney, factor, broker agent, or clerk, in the course of his/her/its employment as such, or by other person in a fiduciary capacity, or for a willful violation of duty,

to recover the possession of property unjustly or fraudulently taken, detained or converted, when the property, or any part thereof, has been concealed, removed, or disposed of to prevent its being found or taken by the applicant or an authorized person,

against a party who has been guilty of a fraud in contracting the debt or incurring the obligation upon which the action is brought, or in the performance thereof,

against a party who has removed or disposed of his/her/its property, or is about to do so, with intent to defraud creditors,

against a party who does not reside and is not found in the Philippines, or on whom summons may be served by publication.

ACCORDINGLY, the applicant is directed to post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ within ten (10) calendar days[[15]](#footnote-15) from notice, conditioned on the payment of all costs which may be adjudged to the adverse party and all damages which such party may sustain by reason of the attachment. Let a Writ of Preliminary Attachment be issued upon posting of the applicant’s bond.

Let Summons, together with a copy of the Complaint, the application for attachment, the applicant’s affidavit and bond, and the Order and Writ of Attachment, be served on the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name).

DENIES the application considering

the applicant has failed to show the existence of a ground for the issuance of a Writ of Preliminary Attachment because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify the reasons for denial).

the application is not supported by Judicial Affidavit/s of the applicant or some other person who personally knows the facts.

there is a sufficient security for the claim sought to be enforced by the action. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 57, Sec. 1. Grounds upon which attachment may issue.** — At the commencement of the action or at any time before entry of judgment, a plaintiff or any proper party may have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:

(a) In an action for the recovery of a specified amount of money or damages, other than moral and exemplary, on a cause of action arising from law, contract, quasi-contract, delict or quasi-delict against a party who is about to depart from the Philippines with intent to defraud his creditors;

(b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;

(c) In an action to recover the possession of property unjustly or fraudulently taken, detained or converted, when the property, or any part thereof, has been concealed, removed, or disposed of to prevent its being found or taken by the applicant or an authorized person;

(d) In an action against a party who has been guilty of a fraud in contracting the debt or incurring the obligation upon which the action is brought, or in the performance thereof;

(e) In an action against a party who has removed or disposed of his property, or is about to do so, with intent to defraud his creditors; or

(f) In an action against a party who does not reside and is not found in the Philippines, or on whom summons may be served by publication. (1a)

**Rule 57, Sec. 2. Issuance and contents of order.** — An order of attachment may be issued either ex parte or upon motion with notice and hearing by the court in which the action is pending, or by the Court of Appeals or the Supreme Court, and must require the sheriff of the court to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless such party makes deposit or gives a bond as hereinafter provided in an amount equal to that fixed in the order, which may be the amount sufficient to satisfy the applicant's demand or the value of the property to be attached as stated by the applicant, exclusive of costs. Several writs may be issued at the same time to the sheriffs of the courts of different judicial regions. (2a)

**Rule 57, Sec. 3. Affidavit and bond required.** — An order of attachment shall be granted only when it appears by the affidavit of the applicant, or of some other person who personally knows the facts, that a sufficient cause of action exists, that the case is one of those mentioned in section 1 hereof, that there is no other sufficient security for the claim sought to be enforced by the action, and that the amount due to the applicant, or the value of the property the possession of which he is entitled to recover, is as much as the sum for which the order is granted above all legal counterclaims. The affidavit, and the bond required by the next succeeding section, must be duly filed with the court before the order issues. (3a)

**Rule 57, Sec. 4. Condition of applicant's bond.** — The party applying for the order must thereafter give a bond executed to the adverse party in the amount fixed by the court in its order granting the issuance of the writ, conditioned that the latter will pay all the costs which may be adjudged to the adverse party and all damages which he may sustain by reason of the attachment, if the court shall finally adjudge that the applicant was not entitled thereto. (4a)

**Rule 57, Sec. 5. Manner of attaching property.** — The sheriff enforcing the writ shall without delay and with all reasonable diligence attach, to await judgment and execution in the action, only so much of the property in the Philippines of the party against whom the writ is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless the former makes a deposit with the court from which the writ is issued, or gives a counter-bond executed to the applicant, in an amount equal to the bond fixed by the court in the order of attachment or to the value of the property to be attached, exclusive of costs. No levy on attachment pursuant to the writ issued under section 2 hereof shall be enforced unless it is preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint, the application for attachment the applicant's affidavit and bond, and the order and writ of attachment, on the defendant within the Philippines.

The requirement of prior or contemporaneous service of summons shall not apply where the summons could not be served personally or by substituted service despite diligent efforts, or the defendant is a resident of the Philippines temporarily absent therefrom, or the defendant is a non-resident of the Philippines, or the action is one in rem or quasi in rem. (5a)

**Rule 57, Sec. 14. Proceedings where property claimed by third person.** — If the property attached is claimed by any person other than the party against whom attachment had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds of such right or title, and serves such affidavit upon the sheriff while the latter has possession of the attached property, and a copy thereof upon the attaching party, the sheriff shall not be bound to keep the property under attachment, unless the attaching party or his agent, on demand of the sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied upon. In case of disagreement as to such value, the same shall be decided by the court issuing the writ of attachment. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The sheriff shall not be liable for damages for the taking or keeping of such property to any such third-party claimant, if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the attaching party from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of attachment is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the attachment, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of the funds to be appropriated for the purpose. (14a)

FORM NO. 57-12, 13 - PR (Rule 57, Sections 12 and 13: Discharge of Attachment)

**O R D E R**

Pursuant to Rule 57, Sections 12 and 13 of the Rules of Court, and acting on the Motion for Discharge of Attachment, the court:

GRANTS the Motion

upon cash deposit, in the amount of ₱\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

upon giving of counter-bond, in the amount of ₱\_\_\_\_\_\_\_\_\_\_\_,

within ten (10) calendar days from notice, in the amount equal to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as fixed in the Order of attachment dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, exclusive of costs, or the value of the property to be discharged, to secure the payment of any judgment that the attaching party may recover in this action.

as the same was improperly or irregularly issued or enforced because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

as the bond is insufficient because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

as the attachment is excessive because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

ACCORDINGLY, the Writ of Preliminary Attachment dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is set aside

in whole.

in part, as to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (specify amount or portion in excess).

The attaching party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is directed to deliver \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the property attached and proceeds, if any) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (party making the deposit or giving the counter-bond, or to the person appearing on his behalf)

within ten (10) calendar days from notice of deposit or counter-bond by the movant.

within ten (10) calendar days from receipt of this Order considering

the writ of attachment was improperly or irregularly issued because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

the bond is insufficient because \_\_\_\_\_\_\_\_\_\_\_\_\_.

the attachment is excessive because \_\_\_\_\_\_\_\_\_.

DENIES the Motion

due to the absence of supporting Judicial Affidavits.

because the attaching party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) has signified that the additional bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ can be furnished. The attaching party is directed to deposit the additional bond within ten (10) calendar days from notice. Failure to comply will cause the discharge of the attachment.

because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state other ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 57, Sec. 12. Discharge of attachment upon giving counter-bond.** – After a writ of attachment has been enforced, the party whose property has been attached, or the person appearing on his behalf, may move for the discharge of the attachment wholly or in part on the security given. The court shall, after due notice and hearing, order the discharge of the attachment if the movant makes a cash deposit, or files a counter-bond executed to the attaching party with the clerk of the court where the application is made, in an amount equal to that fixed by the court in the order of attachment, exclusive of costs. But if the attachment is sought to be discharged with respect to a particular property, the counter-bond shall be equal to the value of that property as determined by the court. In either case, the cash deposit or the counter-bond shall secure the payment of any judgment that the attaching party may recover in the action. A notice of the deposit shall forth with be served on the attaching party. Upon the discharge of an attachment in accordance with the provisions of this section, the property attached, or the proceeds of any sale thereof, shall be delivered to the party making the deposit or giving the counter-bond, or to the person appearing on his behalf, the deposit or counter-bond aforesaid standing in place of the property so released. Should such counter-bond for any reason to be found to be or become insufficient, and the party furnishing the same fail to file an additional counter-bond, the attaching party may apply for a new order of attachment.

**Rule 57, Sec. 13. Discharge of attachment on other grounds.** — The party whose property has been ordered attached may file a motion with the court in which he action is pending, before or after levy or even after the release of the attached property, for an order to set aside or discharge the attachment on the ground that the same was improperly or irregularly issued or enforced, or that the bond is insufficient. If the attachment is excessive, the discharge shall be limited to the excess. If the motion be made on affidavits on the part of the movant but not otherwise, the attaching party may oppose the motion by counter-affidavits or other evidence in addition to that on which the attachment was made. After due notice and hearing, the court shall order the setting aside or the corresponding discharge of the attachment if it appears that it was improperly or irregularly issued or enforced, or that the bond is insufficient, or that the attachment is excessive, and the defect is not cured forthwith.

FORM NO. 58-3, 4, 5, 6 - PR (Rule 58, Sections 3, 4, 5, and 6: Action on Application for Preliminary Injunction)

**O R D E R**

Pursuant to Rule 58, Sections 3, 4, 5, and 6 of the Rules of Court, the court:

GRANTS the application for a  Writ of Preliminary Prohibitory Injunction  Writ of Preliminary Mandatory Injunction of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant), after notice and hearing, the requisites for its issuance having been established thus: there is (1) a clear and unmistakable right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (2) a material and substantial invasion of such right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (3) an urgent need to prevent irreparable injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); and (4) the absence of an ordinary, speedy, adequate remedy to prevent the injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason).

Based on the verified application with Judicial Affidavit/s of the applicant and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of affiants), the court finds that the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the acts or acts complained of, or in requiring performance of an act or acts, either for a limited period or perpetually and

the commission, continuance or non-performance of the acts complained of during the litigation would probably work injustice to the applicant.

a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

The court directs the applicant, within five (5) calendar days from notice, to post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ executed in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined/ordered) to the effect that the applicant will pay to such party or person all damages which the latter may sustain by reason of the injunction should it be finally decided that the applicant is not entitled thereto. The Writ shall be issued upon the approval of the bond.

The applicant is excused from furnishing a bond because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state grounds).

Let a  Writ of Preliminary Prohibitory Injunction  Writ of Preliminary Mandatory Injunction be issued.

The Writ of Preliminary Prohibitory Injunction shall enjoin \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined) from doing the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate act/s being enjoined).

The Writ of Preliminary Mandatory Injunction shall order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s ordered) to perform the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate act/s being mandated).

DENIES the application for  Writ of Preliminary Prohibitory Injunction  Writ of Preliminary Mandatory Injunction

as the application is not supported by a Judicial Affidavit.

as the issuance thereof would cause irreparable damage to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies sought to be enjoined), while the applicant’s potential damages can be fully compensated.

Within ten (10) calendar days, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies sought to be enjoined) is directed to post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ conditioned on the payment of all damages which the applicant may suffer by reason of the denial of the application for a Writ of Preliminary Injunction.

as the application is insufficient because the requisites for its issuance were not established, thus: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 58, Sec. 3. Grounds for Issuance of Preliminary Injunction.** - A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

**Rule 58, Sec. 4. Verified application and bond for preliminary injunction or temporary restraining order.** – A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court, the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued.

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant’s affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriffs return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

**Rule 58, Sec. 5. Preliminary injunction not granted without notice; exception.** – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue *ex parte* a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

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

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued. However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

**Rule 58, Sec. 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order**. — The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified. (6a)

**Rule 65, Sec. 7. Expediting proceedings; injunctive relief.** – The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case, unless a temporary restraining order or a writ of preliminary injunction has been issued, enjoining the public respondent from further proceeding with the case.

The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge.

FORM NO. 58-4, 5, 6 - PR (Rule 58, Sections 4, 5, and 6: Action on the Application for a Temporary Restraining Order)

**O R D E R**

Pursuant to Rule 58, Sections 4, 5, and 6 of the Rules of Court, the court, after summary hearing:

GRANTS the application for Temporary Restraining Order of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant), based on the verified application with Judicial Affidavit/s and supporting documents of the applicant and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of affiants) showing the requisites for its issuance are present, that there is (1) a clear and unmistakable right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (2) a material and substantial invasion of such right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (3) an urgent need to prevent irreparable injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); and (4) the absence of an ordinary, speedy, adequate remedy to prevent the injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason), and that great and irreparable injury will result because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, let a Temporary Restraining Order be issued. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined) is/are enjoined from doing the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate act/s being enjoined). The Temporary Restraining Order shall be effective for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state period) from the date of issuance.

Set this case for hearing on the application for the Writ of Preliminary Injunction on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time), during which the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies sought to be enjoined) should show cause why the preliminary injunction should not be granted.

DENIES the application for Temporary Restraining Order because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state grounds).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 58, Sec. 4. Verified application and bond for preliminary injunction or temporary restraining order.** — A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. (4a)

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

**Rule 58, Sec. 5. Preliminary injunction not granted without notice; exception.** — No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. (Bar Matter No. 803, 17 February 1998)

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

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed, automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining, order issued by the Supreme Court or a member thereof shall be effective until further orders. (5a)

**Rule 58, Sec. 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order.** — The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified. (6a)

FORM NO. 58-4, 5 - PR (Rule 58, Sections 4, and 5: Action by an Executive Judge on the Application for a Temporary Restraining Order)

**O R D E R**

Pursuant to Rule 58, Sections 4, and 5 of the Rules of Court, the court:

GRANTS the application for Temporary Restraining Order of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant), based on the verified application with Judicial Affidavit/s and supporting documents of the applicant and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of affiants) showing the requisites for its issuance are present, that there is (1) a clear and unmistakable right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (2) a material and substantial invasion of such right \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); (3) an urgent need to prevent irreparable injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason); and (4) the absence of an ordinary, speedy, adequate remedy to prevent the injury \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason), and that the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, let a Temporary Restraining Order be issued. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined) is/are enjoined from doing the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate act/s being enjoined). The Temporary Restraining Order shall be effective only for an inextendible period of seventy-two (72) hours from issuance.

DENIES the application for Temporary Restraining Order because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state grounds).

Let this case be raffled immediately with notice to the other party pursuant to Section 4.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 58, Sec. 4. Verified application and bond for preliminary injunction or temporary restraining order.** — A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. (4a)

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

**Rule 58, Sec. 5. Preliminary injunction not granted without notice; exception.** — No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. (Bar Matter No. 803, 17 February 1998)

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

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed, automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining, order issued by the Supreme Court or a member thereof shall be effective until further orders. (5a)

FORM NO. 58-3,4,5 - PR (Rule 58, Sections 3, 4 and 5: Writ of Preliminary Injunction)

**WRIT OF PRELIMINARY INJUNCTION**

TO: Sheriff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

G R E E T I N G S:

WHEREAS, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant) has applied for a Writ of Preliminary  Prohibitory  Mandatory Injunction against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined/ordered).

WHEREAS, the court granted the application and approved the Injunction bond in the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

NOW THEREFORE, you are commanded to implement this Writ against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party/ies or person/s enjoined/ordered)

enjoining them from doing the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ordering them to perform the following acts: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

You are commanded to submit your Return within ten (10) calendar days from service of this Writ.

WITNESS my hand and the seal of the court this day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Branch Clerk

Notes:

**Rule 58, Sec. 3. Grounds for issuance of preliminary injunction. -** A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

**Rule 58, Sec. 4. Verified application and bond for preliminary injunction or temporary restraining order.** - A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court, the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued.

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant’s affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriffs return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

**Rule 58, Sec. 5. Preliminary injunction not granted without notice; exception.** – No preliminary injunction shall be granted without hearing and prior notice to the party or Rule 58, Sec. 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue *ex parte* a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

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

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued. However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders.

FORM NO. 58-6, 7 - PR (Rule 58, Sections 6 and 7: Order on Motion to Lift/Dissolve TRO or WPI)

**O R D E R**

Pursuant to Rule 58, Sections 6 and 7 of the Rules of Court, the court, acting on the Motion to Dissolve the  Temporary Restraining Order (TRO) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  Writ of Preliminary Injunction (WPI) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), after notice and hearing:

GRANTS the Motion it appearing that:

the application is insufficient because the requisites for its issuance were not established \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

although the applicant is entitled to the TRO or WPI, the issuance or continuance thereof would cause irreparable damage to the movant, while the applicant can be fully compensated for any damages they may suffer, and the movant has filed a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as fixed by the Court, conditioned on the payment of all damages which the applicant may suffer by reason of the dissolution of the TRO or WPI.

the applicant failed to post a sufficient bond despite time given by the Court in the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

PARTIALLY GRANTS the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The TRO or WPI is MODIFIED as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state modification/s).

DENIES the Motion because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 58, Sec. 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order.** – The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction granted is too great, it may be modified.

**Rule 58, Sec. 7. Service of copies of bonds; effect of disapproval of same. —** The party filing a bond in accordance with the provisions of this Rule shall forthwith serve a copy of such bond on the other party, who may except to the sufficiency of the bond, or of the surety or sureties thereon. If the applicant’s bond is found to be insufficient in amount, or if the sureties or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be dissolved. If the bond of the adverse party is found to be insufficient in amount, or the surety or sureties thereon fail to justify a bond sufficient in amount with sufficient sureties as approved after justification is not filed forthwith, the injunction shall be granted or restored, as the case may be.

FORM NO. 59-1,2,3 - PR (Rule 59, Sections 1, 2 and 3: Order on the Application for the Appointment of a Receiver)

**O R D E R**

Pursuant to Rule 59, Sections 1, 2, and 3 of the Rules of Court, the court, after notice and hearing:

GRANTS the verified Application for the Appointment of a Receiver/s filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant), for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies or fund/s), which is the subject matter of the proceeding and in which the applicant has an interest, it appearing that:

the property or fund is in danger of being lost, removed, or materially injured unless a receiver be appointed to administer and preserve it.

in an action by the mortgagee for the foreclosure of a mortgage, that the property is in danger of being wasted, dissipated or materially injured, and that its value is probably insufficient to discharge the mortgage debt, or that the parties have so stipulated in the contract of mortgage.

after judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment, or to aid execution when the execution has been returned unsatisfied, or the judgment obligor refuses to apply his property in satisfaction of the judgment, or otherwise to carry the judgment into effect.

the appointment of a receiver is the most convenient and feasible means of preserving, administering, or disposing of the property/ies or fund/s in litigation.

The court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) as Receiver/s, who shall post a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ within ten (10) calendar days from notice. The Receiver/s is directed to appear before this court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) to take an oath before entering upon their duties.

DENIES the verified Application for the Appointment of a Receiver/s:

as none of the grounds for the application was established because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

because the adverse party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) has filed a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in favor of the applicant to answer for all damages the applicant may suffer by reason of the act/s or omission/s specified in the verified Application.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 59, Sec. 1. Appointment of receiver.** – Upon verified application, one or more receivers of the property subject of the action or proceeding may be appointed in the following cases:

(a) When it appears from the verified application, and such other proof as the court may require, that the party applying for the appointment of a receiver has an interest in the property or fund which is the subject of the action or proceeding, and that such property or fund is in danger of being lost, removed, or materially injured unless a receiver be appointed to administer and preserve it;

(b) When it appears in an action by the mortgagor for the foreclosure of a mortgage that the property is in danger of being wasted or dissipated or materially injured, and that its value is probably insufficient to discharge the mortgage debt, or that the parties have so stipulated in the contract of mortgage;

(c) after judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment, or to aid execution when the execution has been returned unsatisfied or the judgment obligor refuses to apply his property in satisfaction of the judgment or to carry the judgment into effect; and

(d) whenever in other cases it appears that the appointment of a receiver is the most convenient and feasible means of preserving, administering, or disposing of the property in litigation.

During the pendency of an appeal, the appellate court may allow an application for the appointment of a receiver to be filed in and decided by the court of origin and the receiver appointed to be subject to the control of said court.

**Rule 59, Sec. 2. Bond on appointment of receiver.** – Before issuing the order appointing a receiver the court shall require the applicant to file a bond executed to the party against whom the application is presented, in an amount to be fixed by the court, to the effect that the applicant will pay such party all damages he may sustain by reason of the appointment of such receiver in case the applicant shall have procured such appointment without sufficient cause; and the court may, in its discretion, at any time after the appointment, require an additional bond as further security for such damages.

**Rule 59, Sec. 3. Denial of application or discharge of receiver.** – The application may be denied, or the receiver discharged, when the adverse party files a bond executed to the applicant, in an amount to be fixed by the court, to the effect that such party will pay the applicant all damages he may suffer by reason of the acts, omissions, or other matters specified hi the application as ground for such appointment. The receiver may also be discharged if it is shown that his appointment was obtained without sufficient cause.

**Rule 39, Sec. 41. Appointment of receiver.** – The court may also appoint a Receiver of the property of the judgment obligor; and it may also forbid a transfer or other disposition of, or any interference with, the property of the judgment obligor not exempt from execution.

FORM NO. 59-3 - PR (Rule 59, Section 3: Action on Motion to Discharge Receiver)

**O R D E R**

Pursuant to Rule 59, Section 3 of the Rules of Court, the court:

GRANTS the Motion to Discharge Receiver/s filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), it appearing, after notice and hearing, that:

the adverse party \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) has filed a bond in favor of the applicant in the amount fixed by the court to answer for all damages the applicant may suffer by reason of the act/s or omission/s specified in the verified Application.

the appointment of the Receiver was without sufficient cause because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

DENIES the Motion to Discharge Receiver/s filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (movant), because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 59, Sec. 3. Denial of application or discharge of receiver.** – The application may be denied, or the receiver discharged, when the adverse party files a bond executed to the applicant in an amount fixed by the court, to the effect that such party will pay the applicant all damages he may suffer by reason of the acts, omissions, or other matters specified in the application as ground for such appointment. The receiver may also be discharged if it is shown that his appointment was obtained without sufficient cause.

FORM NO. 59-8 - PR (Rule 59, Section 8: Termination of Receivership)

**O R D E R**

Pursuant to Rule 59, Section 8 of the Rules of Court, the court  on its own initiative,  on Motion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), terminates the Receivership by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of Receiver/s) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (property/ies), as there is no longer any necessity for it because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

A hearing is set on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time) for the settlement of the accounts of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of the Receiver/s), delivery of the funds and other property in the Receiver’s possession to the person entitled to receive them, the determination of reasonable compensation of the Receiver/s as the circumstances of the case warrant, and for the subsequent discharge of the Receiver/s from further duty.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 59, Sec. 8. Termination of receivership; compensation of receiver.** - Whenever the court, *motu proprio* or on motion of either party, shall determine that the necessity for a receiver no longer exists, it shall, after due notice to all interested parties and hearing, settle the accounts of the receiver, direct the delivery of the funds and other property in his possession to the person adjudged to be entitled to receive them, and order the discharge of the receiver from further duty as such.

FORM NO. 60-1, 2, 3 - PR (Rule 60, Sections 1, 2 and 3: Action on the Application for Writ of Replevin)

**O R D E R**

Pursuant to Rule 60, Sections 1, 2 and 3 of the Rules of Court, the court, after notice and hearing:

GRANTS the Application for a Writ of Replevin of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant), it appearing, that the Complaint is sufficient in form and substance, and considering that:

the applicant is the owner of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the property/ies claimed and the claim of ownership), or is not entitled to the possession thereof because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

the property is wrongfully detained by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (defendant/s), because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state particulars of detention).

the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or placed under *custodia legis*, or if so seized, that it is not exempt from such seizure or custody.

the actual market value of the property which is ₱\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, was properly alleged in the Complaint.

the requisite bond of double the value of the property/ies in the amount of ₱\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has been posted.

Let the Writ of Replevin prayed for be issued for the following personal property/ies \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description).

Let the Summons, together with a copy of the Complaint, and the application for Replevin, the applicant’s affidavit and bond, and this Order and the Writ of Replevin, be served on the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name).

DENIES the Application for a Writ of Replevin of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of applicant) because

the applicant is not the owner of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe the property/ies claimed), or is not entitled to the possession thereof because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

the property is not wrongfully detained by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (defendant/s), because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state particulars of detention).

the property has been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or placed under *custodia legis*, or if so seized, that it is not exempt from such seizure or custody \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (give particulars).

the actual market value of the property was not properly alleged in the Complaint.

the requisite bond of double the value of the property/ies in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state amount) has not been posted.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 60, Sec. 1. Application.** – A party praying for the recovery of possession of personal property may, at the commencement of the action or at anytime before answer, apply for an order for the delivery of such property to him, in the manner hereinafter provided.

**Rule 60, Sec. 2. Affidavit and bond.** – The applicant must show by his own affidavit or that of some other person who personally knows the facts:

(a) That the applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;

(b) That the property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information and belief;

(c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under *custodia legis,* or if so seized, that it is exempt from such seizure or custody; and

(d) The actual market value of the property.

The applicant must also give a bond, executed to the adverse party in double the value of the property as stated in the affidavit, for the return of the property to the adverse party if such return be adjudged, . and for the payment to the adverse party of such sum as he may recover from the applicant in the action.

**Rule 60, Sec. 3. Order.** – Upon the filing of such affidavit and the approval of the bond, the court shall issue an order and the corresponding writ of replevin describing the personal property alleged to be wrongfully detained and requiring the sheriff forthwith to take such property into his custody.

**Sec. 9. Judgment.** – After trial of the issues, the court shall determine who has the right of possession to and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to the same, or for its value in case delivery cannot be made, and also for such damages as either party may prove, with costs.

FORM NO. 60 - PR (Rule 60: Writ of Replevin)

**WRIT OF REPLEVIN**

TO: Sheriff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

G R E E T I N G S:

WHEREAS, the plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ filed an Application with this court for the seizure and delivery of the personal property, more particularly described as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, filed the required affidavit, and executed in favor of the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a bond in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (double the value of the property/ies);

WHEREAS, in the Order of the court dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Application was granted;

WHEREFORE, you are commanded to take immediate possession of the following personal property, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property), which is now in the custody of or detained by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (address).

If within five (5) days after the taking of the property, the adverse party does not object to the sufficiency of the bond, or of the surety or sureties thereon; or if the adverse party so objects and the court affirms its approval of the applicant’s bond or approves a new bond; or if the adverse party requires the return of the property but his bond is objected to and found insufficient and he does not forthwith file an approved bond; the property shall be delivered to the applicant. If for any reason the property is not delivered to the applicant, you must return it to the adverse party.

You are commanded to submit your Return within ten (10) calendar days from the date of the taking of the property above­ described.

WITNESS my hand and the court’s seal this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Branch Clerk

Notes:

**Rule 60, Sec. 2. Affidavit and bond.** – The applicant must show by his own affidavit or that of some other person who personally knows the facts:

(a) That the applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;

(b) That the property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information and belief;

(c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under *custodia legis,* or if so seized, that it is exempt from such seizure or custody; and

(d) The actual market value of the property.

The applicant must also give a bond, executed to the adverse party in double the value of the property as stated in the affidavit, for the return of the property to the adverse party if such return be adjudged, and for the payment to the adverse party of such sum as he may recover from the applicant in the action.

**Rule 60, Sec. 5. Return of property.** – If the adverse party objects to the sufficiency of the applicant’s bond, or of the surety or sureties thereon, he cannot immediately require the return of the property; but if he does not so object, he may, at any time before the delivery of the property to the applicant, require the return thereof, by filing with the court where the action is pending a bond executed to the applicant, in double the value of the property as stated in the applicant’s affidavit, for the delivery thereof to the applicant, if such delivery be adjudged, and for the payment of such sum to him as may be recovered against the adverse party, and by serving a copy of such bond on the applicant.

**Rule 60, Sec. 6. Disposition of property by sheriff.** – If within five (5) days after the taking of the property by the sheriff, the adverse party does not object to the sufficiency of the bond, or of the surety or sureties thereon; or if the adverse party so objects and the court affirms its approval of the applicant’s bond or approves a new bond, or if the adverse party requires the return of the property but his bond is objected to and found insufficient and he does not forthwith file an approved bond, the property shall be delivered to the applicant. If for any reason the property is not delivered to the applicant, the sheriff must return it to the adverse party.

**Rule 60, Sec. 7. Proceedings where property claimed by third person.** – If the property taken is claimed by any other than the party against whom the writ of replevin had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds therefor, and serves such affidavit upon the sheriff while the latter has possession of the property and a copy thereof upon the applicant, the sheriff shall not be bound to keep the property under replevin or deliver it to the applicant unless the applicant or his agent, on demand of said sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property under replevin as provided in section 2 hereof. In case of disagreement as to such value, the court shall determine the same. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of said bond.

The sheriff shall not be liable for damages, for the taking or keeping of such property, to any such third-party claimant if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the applicant from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of replevin is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the replevin, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of the funds to be appropriated for the purpose.

**FORMS ON SPECIAL CIVIL ACTIONS**

FORM NO. 62-1, 2 - SCA (Rule 62, Sections 1 and 2: Order to Interplead)

**O R D E R**

Pursuant to Rule 62, Sections 1 and 2 of the Rules of Court, the court, finding the Complaint filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff),  a person who claims no interest in the subject matter,  a person who has an interest which, in whole or in part, is not disputed by the conflicting claimants, to be sufficient in form and substance, directs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (conflicting claimants) to interplead with one another, there being conflicting claims upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (subject matter).

Let summons be served upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (conflicting claimants), together with a copy of the Complaint and this Order. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (conflicting claimants) is/are given thirty (30) calendar days[[16]](#footnote-16) from receipt of this Order to fila a responsive pleading.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 62, Sec. 1. When interpleader proper.** — Whenever conflicting claims upon the same subject matter are or may be made against a person who claims no interest whatever in the subject matter, or an interest which in whole or in part is not disputed by the claimants, he may bring an action against the conflicting claimants to compel them to interplead and litigate their several claims among themselves.

**Rule 62, Sec. 2. Order.** — Upon the filing of the complaint, the court shall issue an order requiring the conflicting claimants to interplead with one another. If the interests of justice so require, the court may direct in such order that the subject matter be paid or delivered to the court.

**Rule 62, Sec. 3. Summons.** — Summons shall be served upon the conflicting claimants, together with a copy of the complaint and order.

FORM NO. 63-5 - SCA (Rule 63, Section 5: Action on Petition for Declaratory Relief)

**O R D E R**

Pursuant to Rule 63, Section 5 of the Rules of Court, the court  on its own initiative,  on Motion filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), after comment by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of respondent), and finding that

the petitioner is interested under a

deed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe), and

will \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe), and

contract \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe), and

other written instrument \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe), and

before breach or violation thereof, the petitioner’s rights are affected by a

statute \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe),

executive order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe),

regulation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe),

ordinance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe),

any other governmental regulation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe),

the action is one for reformation of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name the instrument),

the action is one to quiet title to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe real property) or remove clouds therefrom,

the action is one to consolidate ownership over \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe real property) under Article 1607 of the Civil Code,

SETS the Petition for Declaratory Relief filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (petitioner) for the reception of evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

nevertheless, DISMISSES the Petition for Declaratory Relief filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of petitioner), because

a decision would not terminate the uncertainty or controversy which gave rise to the action.

a declaration or construction is not necessary or proper under the circumstances.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 63, Sec. 1. Who may file petition.** — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties thereunder.

An action for the reformation of an instrument, to quiet title to real property or remove clouds therefrom, or to consolidate ownership under Article 1607 of the Civil Code, may be brought under this Rule.

**Rule 63, Sec. 3. Notice on Solicitor General.** — In any action which involves the validity of a statute, executive order or regulation, or any other governmental regulation, the Solicitor General shall be notified by the party assailing the same and shall be entitled to be heard upon such question.

**Rule 63, Sec. 5. Court action discretionary.** — Except in actions falling under the second paragraph of section 1 of this Rule, the court, motu proprio or upon motion, may refuse to exercise the power to declare rights and to construe instruments in any case where a decision would not terminate the uncertainty or controversy which gave rise to the action, or in any case where the declaration or construction is not necessary and proper under the circumstances.

FORM NO. 65-6 - SCA (Rule 65, Section 6: Order to Comment on Petition for Certiorari, Prohibition or Mandamus)

**O R D E R**

Pursuant to Rule 65, Section 6 of the Rules of Court, finding the Petition for  *Certiorari*  Prohibition  *Mandamus* filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of petitioner) to be sufficient in form and substance, the court DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of respondent/s) to file a comment thereon, within ten (10) calendar days[[17]](#footnote-17) from receipt of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 65, Sec. 6. Order to comment.** — If the petition is sufficient in form and substance to justify such process, the court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from the receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

*\*In petitions for certiorari before the Supreme Court and the Court of Appeals, the provisions of Rule 56, Sec. 2 shall be observed. Before giving due course thereto, the Court may require the respondents to file their comment to, and not a motion to dismiss, the petition. Thereafter, the Court may require the filing of a reply and such other responsive or other pleadings as it may deem necessary and proper.*

FORM NO. 66-4 - SCA (Rule 66, Section 4: Order on Motion to Commence Action for Quo Warranto)

**O R D E R**

Pursuant to Rule 66, Section 4, Rules of Court, the court DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of respondent/s)

to file a Comment on the application for permission to commence an action for Quo Warranto, within ten (10) calendar days[[18]](#footnote-18) from receipt of this Order.

to appear at the hearing on the application for permission to commence an action for Quo Warranto on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 66, Sec. 3. When Solicitor General or public prosecutor may commence action with permission of court.** — The Solicitor General or a public prosecutor may, with the permission of the court in which the action is to be commenced, bring such an action at the request and upon the relation of another person; but in such case the officer bringing it may first require an indemnity for the expenses and cost of the action in an amount approved by and to be deposited in the court by the person at whose request and upon whose relation the same is brought.

**Rule 66, Sec. 4. When hearing had on application for permission to commence action.** — Upon application for permission to commence such action in accordance with the next preceding section, the court shall direct that notice be given to the respondent so that he may be heard in opposition thereto; and if permission is granted, the court shall issue an order to that effect, copies of which shall be served on all interested parties, and the petition shall then be filed within the period ordered by the court.

FORM NO. 66-3, 4 - SCA (Rule 66, Sections 3 and 4: Order on Motion to Commence Action for Quo Warranto)

**O R D E R**

Pursuant to Rule 66, Sections 3 and 4 of the Rules of Court, the court, upon the request of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) to the  Solicitor General  Public Prosecutor, after notice and hearing:

GRANTS the application for permission of the  Solicitor General  Public Prosecutor, to commence the action for Quo Warranto.

The Solicitor General/Public Prosecutor is ordered to file the Petition within \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days from notice.

DIRECTS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of requesting party) to deposit \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount) with the court to cover the indemnity for the expenses and costs of the action.

DENIES the application for permission of the  Solicitor General  Public Prosecutor, to commence the action for Quo Warranto because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 66, Sec. 3. When Solicitor General or public prosecutor may commence action with permission of court.** — The Solicitor General or a public prosecutor may, with the permission of the court in which the action is to be commenced, bring such an action at the request and upon the relation of another person; but in such case the officer bringing it may first require an indemnity for the expenses and cost of the action in an amount approved by and to be deposited in the court by the person at whose request and upon whose relation the same is brought.

**Rule 66, Sec. 4. When hearing had on application for permission to commence action.** — Upon application for permission to commence such action in accordance with the next preceding section, the court shall direct that notice be given to the respondent so that he may be heard in opposition thereto; and if permission is granted, the court shall issue an order to that effect, copies of which shall be served on all interested parties, and the petition shall then be filed within the period ordered by the court.

**Rule 66, Sec. 8: Period for pleadings and proceedings may be reduced; action given precedence.** — The court may reduce the period provided by these Rules for filing pleadings and for all other proceedings in the action in order to secure the most expeditious determination of the matters involved therein consistent with the rights of the parties. Such action may be given precedence over any other civil matter pending in the court.

FORM NO. 67-4 - SCA (Rule 67, Section 4: Order of Expropriation)

**P A R T I A L J U D G M E N T**

Pursuant to Rule 67, Section 4 of the Rules of Court, the court

GRANTS the Complaint for Expropriation filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) and declares that he/she/it has a lawful right to take \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies) for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state public use/purpose).

The matter of just compensation is referred to the Commissioner/s who shall be selected upon agreement of the parties.

DENIES the Complaint for Expropriation filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

The property subject of the expropriation shall be restored to the custody and possession of the respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) within thirty (30) calendar days[[19]](#footnote-19) from receipt hereof, in the same condition as when it was taken over by the plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), subject to reparation for consequential damages.

Any amount received by the respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) as just compensation shall be returned to the plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), subject to deduction of reasonable rentals for the use of the property from time of takeover, within thirty (30) calendar days.[[20]](#footnote-20)

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 67, Sec. 4. Order of expropriation.** — If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

A final order sustaining the right to expropriate the property may be appealed by any party aggrieved thereby. Such appeal, however, shall not prevent the court from determining the just compensation to be paid.

After the rendition of such an order, the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court deems just and equitable.

**Rule 67, Sec. 5. Ascertainment of compensation.** — Upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify the time within which their report shall be submitted to the court.

Copies of the order shall be served on the parties. Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall be resolved within thirty (30) days after all the commissioners shall have received copies of the objections.

FORM NO. 68-2 - SCA (Rule 68, Section 2: Decision on Foreclosure of Real Estate Mortgage)

**D E C I S I O N**

Pursuant to Rule 68, Section 2 of the Rules of Court, the court

GRANTS the Complaint for Foreclosure of Real Estate Mortgage filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) covering \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies), finding the allegations to be supported by the evidence on record.

The defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is obligated to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, representing the mortgage debt, including interest, other charges and costs. (Provide details)

ACCORDINGLY, judgment is rendered in favor of plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ordering \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) to pay to plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (judgment debt), or to deposit the same, plus costs, with the Office of the Clerk of Court, within ninety (90) calendar days to one hundred twenty (120) calendar days[[21]](#footnote-21) from Entry of this Judgment. In default of such payment, the property/ies located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and covered by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (indicate location/description and title/s of mortgaged property/ies) may be sold at public auction to satisfy the judgment.

DENIES the Complaint for Foreclosure of Real Estate Mortgage filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (plaintiff) because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

ACCORDINGLY, judgment is rendered dismissing the plaintiff’s Complaint for Foreclosure of Real Estate Mortgage.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 68, Sec. 2. Judgment on foreclosure for payment or sale.** — If upon the trial in such action the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and other charges as approved by the court, and costs, and shall render judgment for the sum so found due and order that the same be paid to the court or to the judgment obligee within a period of not less than ninety (90) days nor more than one hundred twenty (120) days from the entry of judgment, and that in default of such payment the property shall be sold at public auction to satisfy the judgment.

FORM NO. 68-3 - SCA (Rule 68, Section 3: Order for the Sale of Mortgaged Property)

**O R D E R**

Pursuant to Rule 68, Section 3 of the Rules of Court, the court GRANTS the Motion for Sale of the Mortgaged Property filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant), for failure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) to pay the judgment debt in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ awarded in the Decision dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, within the period specified therein.

The court DIRECTS the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe mortgaged property/ies) at public auction, in accordance with Rule 39 of the Rules of Court and other regulations governing the sale of real properties under execution.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 68, Sec. 3. Sale of mortgage property; effect.** — When the defendant, after being directed to do so as provided in the next preceding section, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure.

**Rule 68, Sec. 4. Disposition of proceeds of sale.** — The amount realized from the foreclosure sale of the mortgaged property shall, after deducting the costs of the sale, be paid to the person foreclosing the mortgage, and when there shall be any balance or residue, after paying off the mortgage debt due, the same shall be paid to junior encumbrancers in the order of their priority, to be ascertained by the court, or if there be no such encumbrancers or there be a balance or residue after payment to them, then to the mortgagor or his duly authorized agent, or to person entitled to it.

**Rule 68, Sec. 5. How sale to proceed in case the debt is not all due.** — If the debt for which the mortgage or encumbrance was held is not all due as provided in the judgment, as soon as a sufficient portion of the property has been sold to pay the total amount and the costs due, the sale shall terminate; and afterwards, as often as more becomes due for principal or interest and other valid charges, the court may, on motion, order more to be sold. But if the property cannot be sold in portions without prejudice to the parties, the whole shall be ordered to be sold in the first instance, and the entire debt and costs shall be paid, if the proceeds of the sale be sufficient therefor, there being a rebate of interest where such rebate is proper.

**Rule 39, Sec. 19. How property sold on execution; who may direct manner and order of sale.** — All sales of property under execution must be made at public auction, to the highest bidder, to start at the exact time fixed in the notice. After sufficient property has been sold to satisfy the execution, no more shall be sold and any excess property or proceeds of the sale shall be promptly delivered to the judgment obligor or his authorized representative, unless otherwise directed by the judgment or order of the court. When the sale is of real property, consisting of several known lots, they must be sold separately; or, when a portion of such real property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within view of those attending the same and in such parcels as are likely to bring the highest price. The judgment obligor, if present at the sale, may direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels which can be sold to advantage separately. Neither the officer conducting the execution sale, nor his deputies, can become a purchaser, nor be interested directly or indirectly in any purchase at such sale.

**Rule 39, Sec. 25. Conveyance of real property; certificate thereof given to purchaser and filed with registry of deeds.** — Upon a sale of real property, the officer must give to the purchaser a certificate of sale containing:

(a)  A particular description of the real property sold;

(b)  The price paid for each distinct lot or parcel;

(c)  The whole price paid by him;

(d)  A statement that the right of redemption expires one (1) year from the date of the registration of the certificate of sale.

Such certificate must be registered in the registry of deeds of the place where the property is situated.

FORM NO. 68-3a - SCA (Rule 68, Section 3: Order of Confirmation of Sale of Mortgaged Property)

**O R D E R**

Pursuant to Rule 68, Section 3 of the Rules of Court, acting on the Motion for Confirmation of Sale, with the requisite notice to all interested parties, the court GRANTS the Motion and confirms the sale to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the highest bidder, of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description of mortgaged property sold), pursuant to the Order of Sale dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ issued by this court.

ACCORDINGLY, the court confirms the sale of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description of mortgaged property sold) in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of highest bidder) at the public auction conducted on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date of auction sale), as evidenced by the Certificate of Sale dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 68, Sec. 3. Sale of mortgage property; effect.** — When the defendant, after being directed to do so as provided in the next preceding section, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure.

**Rule 68, Sec. 7. Registration.** — A certified copy of the final order of the court confirming the sale shall be registered in the registry of deeds. If no right of redemption exists, the certificate of title in the name of the mortgagor shall be cancelled, and a new one issued in the name of the purchaser.

Where a right of redemption exists, the certificate of title in the name of the mortgagor shall not be cancelled, but the certificate of sale and the order confirming the sale shall be registered and a brief memorandum thereof made by the registrar of deeds upon the certificate of title. In the event the property is redeemed, the deed of redemption shall be registered with the registry of deeds, and a brief memorandum thereof shall be made by the registrar of deeds on said certificate of title.

If the property is not redeemed, the final deed of sale executed by the sheriff in favor of the purchaser at the foreclosure sale shall be registered with the registry of deeds; whereupon the certificate of title in the name of the mortgagor shall be cancelled and a new one issued in the name of the purchaser.

FORM NO. 68-3b - SCA (Rule 68, Section 3: Order on Motion for Writ of Possession)

**O R D E R**

Pursuant to Rule 68, Section 3 of the Rules of Court, in view of

the finality of the Order of Confirmation of Sale dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

the expiration of the period of redemption on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date),

and there being no showing that a third party is actually holding the property adversely to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (judgment obligor), the Motion for Issuance of Writ of Possession is GRANTED.

ACCORDINGLY, let a Writ of Possession be issued in favor of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant) over \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 68, Sec. 3. Sale of mortgage property; effect.** — When the defendant, after being directed to do so as provided in the next preceding section, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure.

FORM NO. 68-6 - SCA (Rule 68, Section 6: Deficiency Judgment)

**D E F I C I E N C Y J U D G M E N T**

Pursuant to Rule 68, Section 6 of the Rules of Court, a Motion for Deficiency Judgment was filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date).

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), the court rendered a Judgment ordering the foreclosure of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property) for the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Pursuant thereto, the property was sold in auction on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) for the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

There being a balance of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state amount) due to the movant, after applying the proceeds of the sale to the adjudged amount, the court renders this deficiency judgment against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) for the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, representing such balance for which \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) is personally liable considering that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state how the defendant is personally liable to the plaintiff).

ACCORDINGLY, the court orders \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant) to pay \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of movant) the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 68, Sec. 6. Deficiency judgment.** — If upon the sale of any real property as provided in the next preceding section there be a balance due to the plaintiff after applying the proceeds of the sale, the court, upon motion, shall render judgment against the defendant for any such balance for which, by the record of the case, he may be personally liable to the plaintiff, upon which execution may issue immediately if the balance is all due at the time of the rendition of the judgment; otherwise, the plaintiff shall be entitled to execution at such time as the balance remaining becomes due under the terms of the original contract, which time shall be stated in the judgment.

**Rule 68, Sec. 2. Judgment on foreclosure for payment or sale.** — If upon the trial in such action the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and other charges as approved by the court, and costs, and shall render judgment for the sum so found due and order that the same be paid to the court or to the judgment obligee within a period of not less than ninety (90) days nor more than one hundred twenty (120) days from the entry of judgment, and that in default of such payment the property shall be sold at public auction to satisfy the judgment.

**Rule 68, Sec. 3. Sale of mortgage property; effect.** — When the defendant, after being directed to do so as provided in the next preceding section, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure.

FORM NO. 69-2 - SCA (Rule 69, Section 2: Order of Partition)

**O R D E R**

Pursuant to Rule 69, Section 2 of the Rules of Court, upon a finding that co-ownership exists between/among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of co-owners) over \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (describe property/ies) because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details of co-ownership), the court

GRANTS the Complaint for Partition filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff), insofar as to declare the existence of a co-ownership among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state names of co-owners) over the aforementioned properties.

The court APPROVES the Partition Agreement submitted by the parties with the following terms: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (copy terms).

The Partition Agreement is ordered recorded in the Registry of Deeds of the place/s where the real property/ies is/are located.

The court DENIES the Partition Agreement submitted by the parties because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

The issue of actual partition is referred by the court to the Commissioner/s.

The court appoints \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s) as Commissioner/s to make the partition. The Commissioner/s shall submit a full report to the court within a period of ninety (90) calendar days from their assumption of duties.

DENIES the Complaint for Partition filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff) because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state ground/s).

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 69, Sec. 2. Order for partition, and partition by agreement thereunder.** — If after the trial the court finds that the plaintiff has the right thereto, it shall order the partition of the real estate among all the parties in interest. Thereupon the parties may, if they are able to agree, make the partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by all the parties, and such partition, together with the order of the court confirming the same, shall be recorded in the registry of deeds of the place in which the property is situated.  
  
A final order decreeing petition and accounting may be appealed by any party aggrieved thereby.

**Rule 69, Sec. 3. Commissioners to make partition when parties fail to agree.** — If the parties are unable to agree upon the partition, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to make the partition, commanding them to set off to the plaintiff and to each party in interest such part and proportion of the property as the court shall direct. (3a)

**Rule 69, Sec. 4. Oath and duties of commissioners.** — Before making such partition; the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. In making the partition, the commissioners shall view and examine the real estate, after due notice to the parties to attend at such view and examination, and shall hear the parties as to their preference in the portion of the property to be set apart to them and the comparative value thereof, and shall set apart the same to the parties in lots or parcels as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts thereof. (4a)

FORM NO. 71-1 - SCA (Rule 71, Section 1: Order for Direct Contempt)

**O R D E R**

Pursuant to Rule 71, Section 1 of the Rules of Court, the court summarily adjudges \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) in direct contempt of court for

misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same.

disrespect toward the court.

offensive personalities toward others.

refusal to be sworn or to answer as a witness, when lawfully required to do so.

refusal to subscribe an affidavit or deposition when lawfully required to do so.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the factual basis)

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is found guilty of direct contempt of court and is imposed the penalty of

a fine in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

imprisonment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days.

imprisonment until he/she complies with the Writ/Process/Order of the court dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 71, Sec. 1. Direct contempt punished summarily.** — A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court.

**Rule 71, Sec. 8. Imprisonment until order obeyed.** — When the contempt consists in the refusal or omission to do an act which is yet in the power of the respondent to perform, he may be imprisoned by order of the court concerned until he performs it.

FORM NO. 71-3, 4 - SCA (Rule 71, Sections 3 and 4: Order for Indirect Contempt)

**O R D E R**

Pursuant to Rule 71, Sections 3 and 4 of the Rules of Court, the Court  on its own initiative,  upon a verified Petition, and after notice and hearing, adjudges \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) in indirect contempt of court for

misbehavior of an officer of a court in the performance of his official duties or in his official transactions.

disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto.

any abuse of or any unlawful interference with the process or proceedings of a court not constituting direct contempt under Rule 71, Section 1.

any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

assuming to be an attorney or an officer of a court, and acting as such without authority.

failure to obey a subpoena duly served.

the rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons)

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is found guilty of indirect contempt of court and is imposed the penalty of

a fine in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

imprisonment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ calendar days.

imprisonment until he/she/it complies with the Writ/Process/Order/Judgment of the court dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 71, Sec. 3. Indirect contempt to be punished after charge and hearing.** — After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the process or proceedings of a court not constituting direct contempt under section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f)  Failure to obey a subpoena duly served;

(g)  The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

**Rule 71, Sec. 4. How proceedings commenced.** — Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

**Rule 71, Sec. 8. Imprisonment until order obeyed.** — When the contempt consists in the refusal or omission to do an act which is yet in the power of the respondent to perform, he may be imprisoned by order of the court concerned until he performs it.

FORM NO. 71-3,4a - SCA (Rule 71, Sections 3 and 4: Show Cause Order for Indirect Contempt)

**O R D E R**

Pursuant to Rule 71, Sections 3 and 4 of the Rules of Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is ordered to show cause, within ten (10) calendar days[[22]](#footnote-22) from notice, why he/she/it should not be declared in indirect contempt of court for

misbehavior of an officer of a court in the performance of his official duties or in his official transactions.

disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto.

any abuse of or any unlawful interference with the process or proceedings of a court not constituting direct contempt under Rule 71, Section 1.

any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

assuming to be an attorney or an officer of a court, and acting as such without authority.

failure to obey a subpoena duly served.

the rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the factual basis)

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule 71, Sec. 3. Indirect contempt to be punished after charge and hearing.** — After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the process or proceedings of a court not constituting direct contempt under section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f)  Failure to obey a subpoena duly served;

(g)  The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

**Rule 71, Sec. 4. How proceedings commenced.** — Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

**FORMS ON THE RULES ON EXPEDITED PROCEDURES IN THE FIRST LEVEL COURTS**

FORM NO. II-2-EP (Rule II, Section 2: Prohibited Pleadings and Motions)

**O R D E R**

Pursuant to Rule II, Section 2 of the Rules on Expedited Procedures in the First Level Courts, the  plaintiff’s  defendant’s:

Motion to dismiss the complaint or the statement of claim which do not raise the defense of lack of jurisdiction over the subject matter or non-compliance with the required referral to barangay conciliation;

Statement of claim, which do not raise the defense of lack of jurisdiction over the subject matter or non-compliance with the required referral to barangay conciliation;

Motion to quash the Complaint/Information, which do not raise the defense of lack of jurisdiction or non-compliance with the required barangay conciliation;

Motion to hear and/ or resolve affirmative defenses;

Motion for a bill of particulars;

Motion for new trial;

Motion for reconsideration of a judgment on the merits;

Motion for reopening of proceedings;

Petition for relief from judgment;

Motion for extension of time to file  pleading/s  affidavit/s  any other paper: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (identify type of document);

Memoranda;

Petition for  certiorari  mandamus  prohibition against the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (identify the interlocutory order subject of the petition);

Motion to declare the defendant in default;

Unjustified motion for postponement not grounded on acts of God, force majeure, or physical inability of a counselor witness to personally appear in court, as supported by the requisite affidavit and medical proof;

Rejoinder;

Third-party complaints;

Motion for Intervention;

Complaint in Intervention;

Unjustified motion to admit late  judicial affidavit/s,  position papers, or  other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (identify the type of document subject of the motion);

is EXPUNGED for being a prohibited  pleading  motion.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Sec. 2. Prohibited pleadings and motions.** - The following pleadings, motions, or petitions shall not be allowed in cases governed by these Rules:

1. In civil cases, a motion to dismiss the complaint or the statement of claim, and in criminal cases, a motion to quash the complaint or information, except on the ground of lack of jurisdiction over the subject matter or failure to comply with the requirement of barangay conciliation, pursuant to Chapter VII, Title t Book III of Republic Act No. 7160;
2. Motion to hear and/ or resolve affirmative defenses;
3. Motion for a bill of particulars;
4. Motion for new trial. or for reconsideration of a judgment on the merits, or for reopening of proceedings.
5. Petition for relief from judgment;
6. Motion for extension of time to file pleadings, affidavits or any other paper;
7. Memoranda;
8. Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
9. Motion to declare the defendant in default;
10. Dilatory motions for postponement. Any motion for postponement shall be presumed dilatory unless grounded on acts of God, force majeure, or physical inability of a counselor witness to personally appear in court, as supported by the requisite affidavit and medical proof;
11. Rejoinder;
12. Third-party complaints;
13. Motion for and Complaint in Intervention;
14. Motion to admit late judicial affidavit/s, position papers, or other evidence, except on the ground of force majeure or acts of God;

FORM NO. II-3-EP (Rule II, Section 3: Videoconference: On Plaintiff’s or Defendant’s Motion)

**O R D E R**

Pursuant to Rule II, Section 3 of the Rules on Expedited Procedures in the First Level Courts,

the case is set for videoconference hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M. The court finds that it is beneficial to the fair, speedy, and efficient administration of justice since \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state specific reason/s). The Branch Clerk of Court is directed to send the videoconference link to the electronic mail addresses of the parties, or the counsel of records, as indicated in the record of the case.

acting on the  plaintiff’s/ plaintiffs’  prosecution’s  defendant’s/ defendants’ Motion for the Conduct of a Videoconference Hearing filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the same is:

GRANTED, for being beneficial to the fair, speedy, and efficient administration of justice, since \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state specific reason/s).

ACCORDINGLY, set the case for videoconference hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M. The Branch Clerk of Court is directed to send the videoconference link to the electronic mail addresses of the parties, or the counsel of record, as indicated in the record of the case.

DENIED,

for non-compliance with the requisites under the rules issued by the Supreme Court on Videoconferencing Hearings.

because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state other reason/s).

ACCORDINGLY, set the case for hearing before this court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_: \_\_\_\_ ❑ A.M. ❑ P.M.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Sec. 3. Videoconference.** - As far as practicable, and if the court finds that the conduct of a videoconference hearing will be beneficial to the fair, speedy and efficient administration of justice, the court, on its own initiative or upon motion, may set the case for a videoconference hearing at any stage the proceedings.

**A.M. No. 19-05-05-SC.**

**A.M. No. 20-12-01-SC.**

FORM NO. III(A)-2-EP (Rule III (A), Section 2: Form and Contents of Pleadings: Dismissal on Failure to Comply with Barangay Conciliation)

**O R D E R**

Pursuant to Rule III (A), Section 2, paragraph 2 of the Rules on Expedited Procedures in the First Level Courts,

on the court’s own initiative, as the Complaint filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff/s) failed to comply with Chapter VII, Title I, Book III of Republic Act No. 7160, on prior referral for barangay conciliation, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s),

ACCORDINGLY, the case is dismissed without prejudice.

the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant/s)  motion  affirmative defense to dismiss the Complaint filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff/s) as it failed to comply with Chapter VII, Title I, Book III of Republic Act No. 7160, on prior referral for barangay conciliation is:

GRANTED because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, the case is dismissed without prejudice.

DENIED, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY:

defendant/s is/are directed to file their responsive pleading within the period to which the defendant/s was/were entitled at the time of the filing of the motion, which shall not be less than five (5) calendar days in any event.

parties are directed to appear at the preliminary conference on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M. The Branch Clerk of Court is directed to issue a notice of preliminary conference.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 2. Form and contents of pleadings.** – “All cases requiring prior referral to barangay conciliation must contain a statement of compliance, pursuant to Chapter VII, Title 1, Book III of Republic Act No. 7160. Where there is no showing of compliance with such requirement, the complaint shall be dismissed without prejudice, on the court's own initiative or upon motion by the defendant, and may be re-filed only after the requirement has been complied with.”

FORM NO. III(A)-2a-EP (Rule III (A), Section 2: Form and Contents of Pleadings: Dismissal on Lack of Jurisdiction over Subject Matter)

**O R D E R**

Pursuant to Rule III (A), Section 2, paragraph 2 of the Rules on Expedited Procedures in the First Level Courts,

on the court’s own initiative, as the Complaint filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff/s) shows that the Court has no jurisdiction over the subject matter, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s),

ACCORDINGLY, the case is DISMISSED without prejudice.

the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant/s)  motion  affirmative defense to dismiss the Complaint filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of plaintiff/s) on the ground of lack of jurisdiction over the subject matter, is:

GRANTED because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, the case is DISMISSED without prejudice.

DENIED, because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY:

defendant/s is/are directed to file their responsive pleading within the period to which the defendant/s was/were entitled at the time of the filing of the motion, which shall not be less than five (5) calendar days in any event.

parties are directed to appear at the preliminary conference on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M. The Branch Clerk of Court is directed to issue a notice of preliminary conference.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 2. Form and contents of pleadings.** – “All cases requiring prior referral to barangay conciliation must contain a statement of compliance, pursuant to Chapter VII, Title 1, Book III of Republic Act No. 7160. Where there is no showing of compliance with such requirement, the complaint shall be dismissed without prejudice, on the court’s own initiative or upon motion by the defendant, and may be re-filed only after the requirement has been complied with.”

FORM NO. III(A)-4-EP (Rule III (A), Section 4. Summons: Initial Order)

**O R D E R**

Pursuant to Rule III (A), Section 4 of the Rules on Expedited Procedures in the First Level Courts, considering that this case is governed by the Rule on Summary Procedure, and finding no grounds for outright dismissal of the case, the Branch Clerk of Court is directed to issue Summons to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of defendant/s) at the address/es indicated in the record, within twenty-four (24) hours[[23]](#footnote-23) from issuance of this Order.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III(A), Sec. 4. Summons.** — Within five (5) calendar days from receipt of a new civil case, if the court determines that the case falls under this Rule, the court shall direct the Branch Clerk to issue summons to the defendant, stating clearly that the case shall be governed by the Rule on Summary Procedure.

However, if from an examination of the allegations in the initiatory pleading and such evidence as may be attached thereto, a ground for the outright dismissal of the case is apparent, the court may dismiss the case on its own initiative. These grounds include lack of subject matter jurisdiction, improper venue, lack of legal capacity to sue, litis pendentia, res judicata, prescription, failure to state a cause of action, non-submission of a certification against forum shopping, and lack of compliance with a condition precedent such as absence of barangay conciliation, among others.

A patently erroneous determination to avoid the application of the Rule on Summary Procedure is a ground for disciplinary action.

FORM NO. III(A)(a)-4-EP (Rule III (A), Section 4. Summons: Dismissal)

**ORDER**

Pursuant to Rule III (A), Section 4, paragraph 2 of the Rules on Expedited Procedures in the First Level Courts, the court, on its own initiative, after an examination of the allegations in the initiatory pleading and the attached evidence, finds that:

the venue is improperly laid,

the plaintiff lacks the legal capacity to sue,

that there is a pending litigation \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state case title) between the plaintiff and defendant involving the same subject matter, issue, and reliefs prayed for,

there is a failure to state a cause of action,

the plaintiff failed to submit a certification against forum shopping,

there is failure to comply with a condition precedent such as  non-compliance with arbitration clause  others \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

others: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the ground/s),

because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reason/s).

ACCORDINGLY, this case is DISMISSED  with prejudice  without prejudice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 4. Summons. 2nd paragraph.** – “However, if from an examination of the allegations in the initiatory pleading and such evidence as may be attached thereto, a ground for the outright dismissal of the case is apparent, the court may dismiss the case on its own initiative. These grounds include lack of subject matter jurisdiction, improper venue, lack of legal capacity to sue, litis pendentia, res judicata, prescription, failure to state a cause of action, non-submission of a certification against forum. shopping, and lack of compliance with a condition precedent such as absence of barangay conciliation among others."

FORM NO. III(A)-9-EP (Rule III (A), Section 9. Effect of Failure to File Answer: Defendant Failed to File an Answer)

**O R D E R**

Per the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (identify proof of service of summons, *i.e.*, Sheriff’s Return, Affidavit of Publication, etc.), the summons was successfully served on defendant/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the name/s of the defendant/s) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state the date of service of the summons. Defendant/s, however, failed to file an Answer within the prescribed period.

ACCORDINGLY, this case is submitted for decision as may be warranted by the facts alleged in the Complaint and its attachments, and pursuant to Rule III(A), Section 9 of the Rules on Expedited Procedures in the First Level Courts.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 9. Effect of failure to file answer.** – Should the defendant fail to answer the complaint within the period provided, the court, on its own initiative, or upon manifestation by the plaintiff that the period for filing answer has already lapsed, shall render judgment as may be warranted by the facts alleged in the complaint and its attachments, limited to what is prayed for therein.

The court may reduce the amount of damages and attorney’s fees claimed for being excessive or otherwise unconscionable.

FORM NO. III(A)-10-EP (Rule III (A), Section 10. Preliminary Conference; Notice)

**NOTICE OF PRELIMINARY CONFERENCE**

Pursuant to Rule III(A), Section 10 of the Rules on Expedited Procedures in the First Level Courts, the parties personally or through their duly authorized representatives, and their respective counsel, are directed to appear at the:

**Preliminary Conference** on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M., **and**

**Court Annexed-Mediation** on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M.

**Judicial Dispute Resolution** on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_ : \_\_\_  A.M.  P.M.

The parties are required to file with the Court and serve on the adverse party at least three (3) calendar days before the date of the Preliminary Conference their respective Preliminary Conference Briefs. Failure to submit the Preliminary Conference Briefs on time shall have the same effect as failure to appear at the Preliminary Conference. It shall contain, among others:

1. A summary of admitted facts;
2. A summary of disputed facts and proposals for stipulations on the same;
3. A statement of factual and legal issues; and
4. A list of testimonial, object, and other documentary evidence offered in support of the party’s claims or defenses, and their markings, if any.

Failure to submit a Preliminary Conference Brief within the prescribed period shall have the same effect as failure to appear at the Preliminary Conference. The failure, despite notice, of the plaintiff and/or counsel to appear at any of the foregoing settings shall be a cause for the dismissal of the Complaint and shall entitle the defendant to a judgment on the counterclaim. On the other hand, a sole defendant and/or counsel who fails to appear, despite notice, shall entitle the plaintiff to judgment based on the Complaint and its attachments. The non-appearance of a party and/or counsel may be excused only for acts of God, force majeure, or duly substantiated physical inability.

Moreover, a representative appearing on behalf of a party must be fully authorized, through a Special Power of Attorney or a Board Resolution to: (1) enter into an amicable settlement, (2) to submit to alternative modes of dispute resolution, and (3) to enter into stipulations or admissions of facts and documents. An authority which fails to include all these acts shall be ineffective and the party represented shall be deemed absent.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Sec. 10. Preliminary Conference; notice.** - Within five (5) calendar days after the last responsive pleading is filed, the Branch Clerk of Court shall issue a Notice of Preliminary Conference, which shall be held within thirty (30) calendar days from the date of filing of such last responsive pleading. The rules on pre-trial under Rule 18 of the 2019 Amendments to the 1997 Rules of Civil Procedure shall be applicable to the Preliminary Conference, unless inconsistent.

The Notice of Preliminary Conference shall include the dates respectively set for:

1. Preliminary Conference (within 30 calendar days from the filing of the last responsive pleading);
2. Court-Annexed Mediation (within an inextendible period of 30 calendar days from date of referral for mediation); and
3. Judicial Dispute Resolution, in the court's discretion (within an inextendible period of 15 calendar days from notice of failure of the Court-Annexed Mediation).

Non-appearance at any of the foregoing settings shall be deemed as non-appearance at the Preliminary Conference and shall merit the same sanctions under Section 12 of this Rule.

**Sec. 11. Preliminary Conference Brief** *-* The parties shall file with the court and serve on the adverse party in such a way as to ensure receipt, at least three (3) calendar days before the scheduled Preliminary Conference, their respective Preliminary Conference Briefs, which shall contain, among others:

1. A summary of admitted facts;
2. A summary of disputed facts and proposals for stipulations on the same;
3. A statement of factual and legal issues; and
4. A list of testimonial, object, and other documentary evidence offered in support of the party's claims or defenses, and their markings, if any.

Failure to submit a Preliminary Conference Brief within the period given shall merit the same sanction as non-appearance at the Preliminary Conference.

**Sec. 12. Appearance at Preliminary Conference.** *-* It shall be the duty of the parties and their counsel to appear at the Preliminary Conference, Court Annexed Mediation, and Judicial Dispute Resolution, if the latter is ordered by the court. The non-appearance of a party and! or 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 through a Special Power of Attorney or a board resolution, as the case may be, to: (1) enter into an amicable settlement, (2) to submit to alternative modes of dispute resolution, and (3) to enter into stipulations or admissions of facts and documents. An authority which fails to include all these acts shall be ineffective and the party represented shall be deemed absent.

The failure despite notice of the plaintiff and/or his or her counsel to appear at the Preliminary Conference shall be a cause for the dismissal of the complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on the counterclaim, in accordance with Section 9 of this Rule. All cross-claims shall be dismissed.

If a sole defendant and/or his or her counsel fail to appear at the Preliminary Conference, the plaintiff shall be entitled to judgment in accordance with Section 9 of this Rule. This Rule shall not apply, however, where one of two or more defendants sued under a common cause of action and who had pleaded a common defense, shall appear at the Preliminary Conference.

\**The Branch Clerks of Court are reminded that under Section 201 of the National Internal Revenue Code, the payment of documentary stamp taxes is a requirement for the use and admissibility of documents in court.*

**A.M. No. 19-10-20-SC, Chapter 2B, Sec. 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.||| (2020 Guidelines for the Conduct of the Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) in Civil Cases, A.M. No. 19-10-20-SC (Resolution), [February 9, 2021])

FORM NO. III(A)-12-EP (Rule III (A), Section 12. Preliminary Conference)

**O R D E R**

Pursuant to Section 12, Rule III (A) of the Rules on Expedited Procedures in the First Level Courts, considering the failure of  plaintiff  plaintiff’s counsel  defendant  defendant’s counsel:

to appear in today’s Preliminary Conference,

to submit a Preliminary Conference Brief,

to appear before the Philippine Mediation Center on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state date of CAM),

to appear for Judicial Dispute Resolution on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state date of JDR),

the case is DISMISSED  with prejudice  without prejudice.

the plaintiff’s Complaint is submitted for judgment, and the defendant’s counterclaim is DISMISSED.

the plaintiff’s Complaint is DISMISSED and the defendant’s counterclaim is submitted for judgment.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 10. Preliminary Conference. 3rd paragraph.** – Non-appearance at any of the foregoing settings shall be deemed as non-appearance at the Preliminary Conference and shall merit the same sanctions under Section 12 of this Rule.

**Rule III (A), Sec. 12. Appearance at Preliminary Conference. 3rd paragraph**. – The failure despite notice of the plaintiff and/or his or her counsel to appear at the Preliminary Conference shall be a cause for the dismissal of the complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on the counterclaim, in accordance with Section 9 of this Rule. All cross-claims shall be dismissed.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 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.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 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.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 3. Appearance of Corporations, Partnerships, or Other Juridical Entities.** 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.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 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.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 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.

**A.M. No. 19-10-20-SC, Chapter 2D, Sec. 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.

FORM NO. III(A)-13-EP (Rule III (A), Section 13. Preliminary Conference Order)

**P R E L I M I N A R Y C O N F E R E N C E O R D E R**

At today’s Pre-Trial Conference, the following parties appeared:

For the Plaintiff: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (State name of plaintiff and counsel)

For the Defendant: \_\_\_\_\_\_\_\_\_ (State name of defendant and counsel)

**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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

**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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

**III. ADMISSIONS AND STIPULATIONS**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IV. ISSUES**

A. Issue/s of Fact

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Issue/s of Law

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

With no other matters to be taken up and based on the pleadings and their attachments, as well as the stipulations and admissions made by the parties, the Preliminary Conference is considered closed and terminated.

Without prejudice to the Court-Annexed Mediation and/or the Judicial Dispute Resolution,

the above-entitled case shall be submitted for decision without the necessity of submitting position papers, upon receipt of the Mediator’s Report or the Judicial Dispute Resolution Report.

the parties are directed to submit their respective position papers within ten (10) calendar days from receipt hereof. No other judicial affidavits or evidence will be admitted even if filed with the position papers.

|  |  |  |
| --- | --- | --- |
| **CONFORMITY** |  | |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Plaintiff | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Plaintiff's Counsel | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant's Counsel |  |
| ATTESTED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Branch Clerk of Court  SO ORDERED.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  Place Date  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Judge | |  |

Notes:

**A.M. No. 08-8-7-SC Rule III(A), Sec. 13. Preliminary Conference Order**. — Immediately after the preliminary conference and the issues having been joined, the court shall issue a Preliminary Conference Order referring the parties to the mandatory Court-Annexed Mediation, and Judicial Dispute Resolution, which shall be conducted in accordance with the provisions of A.M. No. 19-10-20-SC or the 2020 Guidelines for the Conduct of the Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) in Civil Cases.

The court may, in the same Preliminary Conference Order, declare the case submitted for judgment if, on the basis of the pleadings and their attachments, as well as the stipulations and admissions made by the parties, judgment may be rendered without the need of submission of position papers. In this event, the court shall render judgment within thirty (30) calendar days from issuance of the order. The court's order shall not be the subject of a motion for reconsideration or a petition for certiorari, prohibition, or mandamus, but may be among the matters raised on appeal after a judgment on the merits.

If the court, however, deems the submission of position papers still necessary, it shall require the parties, in the Preliminary Conference Order, to submit their respective position papers within ten (10) calendar days from receipt of such order. No other judicial affidavits or evidence will be admitted even if filed with the position papers.

FORM NO. III(A)-14-EP (Rule III(A), Section 14. Rendition of Judgment: Failed Mediation, Submitted for Decision, No Additional Evidence)

**O R D E R**

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state date of receipt), the court received the  Mediator’s Report dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Judicial Dispute Resolution Report dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, showing that the parties failed to reach an amicable settlement.

However, since there is a necessity to clarify certain material facts, specifically \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state clearly and concisely the matters to be clarified), the  plaintiff  defendant is/are DIRECTED to submit additional judicial affidavits and/or other evidence pertinent thereto, within ten (10) calendar days from receipt of this order.

The case shall be submitted for decision after the court’s receipt of the last clarificatory judicial affidavit/s, and/or evidence, or the expiration of the period to file the same.

ACCORDINGLY, the case is submitted for decision.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (A), Sec. 14. Rendition of Judgment.** – “Within thirty (30) calendar days from receipt by the court of the Mediator’s Report or the JDR Report on the parties’ failure to reach an amicable settlement, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit additional judicial affidavits or other evidence on the said matters, within ten (10) calendar days from receipt of said order. Judgment shall be rendered within fifteen (15) calendar days after the receipt of the last clarificatory judicial affidavits, or the expiration of the period for filing the same.

The court shall not resort to the clarificatory procedure to gain time for the rendition of the judgment.

FORM NO. III(B)-2-EP (Rule III (B), Section 2. Duty of Court; Judicial Affidavits: Not Finding Probable Cause, Release of Accused)

**O R D E R**

After an examination of the  Complaint  Information, as well as the accompanying affidavits and evidence, the court finds no probable cause to hold accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of accused) for trial, considering that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state clearly and concisely the reasons).

ACCORDINGLY, the above-entitled case against accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of accused) is DISMISSED.

The jail warden or police officer of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (detention facility) is DIRECTED to immediately release the accused from custody, unless he or she is being held for some other lawful cause or charge.

The bail bond, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state details), shall be immediately released to the accused.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (B), Duty of court; Judicial Affidavits.** – “(a) If commenced by complaint. – On the basis of the complaint and the judicial affidavits and other evidence accompanying the same, the court may dismiss the case outright for lack of probable cause, and order the release of the accused if in custody.”

FORM NO. III(B)(a)-2-EP (Rule III (B), Section 2. Duty of Court; Judicial Affidavits: Commenced by Complaint, Finding Probable Cause)

**O R D E R**

The accused is DIRECTED to submit a judicial counter-affidavit and judicial affidavits of the witnesses, as well as any other evidence, within fifteen (15) calendar days from receipt of this order. The accused shall serve copies thereof on the private complainant and the public prosecutor within the same period.

Thereafter, the case shall be set for arraignment and pre-trial conference on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. The accused and his or her counsel and all the defense witnesses, the public prosecutor and private prosecutor, as well as law enforcement agents, are directed to appear at the said hearing. Should the accused fail to appear, the court shall issue a warrant for his arrest pursuant to Rule III(B), Section 4 of the Rules on Expedited Procedures in the First Level Courts.

ACCORDINGLY, set the above-entitled case for arraignment and pre-trial conference on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. The accused and his or her counsel and all the defense witnesses, the public prosecutor and private prosecutor, as well as law enforcement agents, are directed to appear at the said hearing.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (B), Sec. 4. Arrest.** – “The court shall not issue a warrant for the arrest of the accused in criminal cases governed by the Rule on Summary Procedure, except for failure to appear despite notice, whenever required by the court. Release of the person arrested shall either be on bail, or on his or her own recognizance, or that of a responsible citizen acceptable to the court.”

**Rule III (B), Sec. 5. Arraignment and pre-trial. 2nd paragraph.** – “The notice of arraignment and pre-trial shall require the attendance of the accused and his or her counsel and all defense witnesses, the private complainant and his or her witnesses, the public prosecutor and private prosecutor, where allowed, as well as the law enforcement agents assigned to the case”

FORM NO. III(B)-5-EP (Rule III (B), Section 5. Arraignment and Pre-Trial: Detained, No Judicial Counter-Affidavit)

**O R D E R**

A perusal of the record shows that the accused is detained and has not submitted a judicial counter-affidavit, the judicial affidavits of the witnesses and other evidence. Considering the accused’s waiver of the court’s consideration of said submissions in the determination of the existence of probable case, the court finds that the accused should be held for trial in the above-entitled case. Accordingly, arraignment and pre-trial conference shall proceed.

During the arraignment, the accused, then duly assisted by counsel  de oficio  de parte Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, was furnished with the copy of the Information which was read to him or her in  English  Filipino  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (language), a language known to and understood by the accused. Upon arraignment, the accused pleaded “NOT GUILTY” to the offense charged. Accordingly, enter the plea into the record of this case.

Thereafter, the pre-trial proceeded wherein the following matters were taken-up:

**I. PROSECUTION’S EVIDENCE**

A. Documentary and other Object Evidence:

Exhibit "A" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "B" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "C" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

B. Testimonial Evidence:

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date and time);

C. Reserved Evidence:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

**II. EVIDENCE FOR THE ACCUSED**

A. Documentary and other Object Evidence:

Exhibit "A" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "B" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "C" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

B. Testimonial Evidence:

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

C. Reserved Evidence:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

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

**III. ADMISSIONS AND STIPULATIONS**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IV. ISSUES**

A. Issue/s of Fact

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Issue/s of Law

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The court will observe the One-Day Examination of Witness Rule. The trial dates are final and intransferable, and no dilatory motions for postponement shall be entertained by the court. If such motions are granted in accordance with the rules, the postponement/s by either party shall be deducted from such party’s allotted time to present evidence.

There being no other matters to be taken up, the pre-trial conference is now considered closed and terminated.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**One-Day Witness Examination Rule** – A.M. No. 03-1-09 SC or the Rule on Guidelines to be Observed by the Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition Discovery Measures)

**Rule III (B), Sec. 5(b), 2nd paragraph.** - No admission by the accused shall be used against him or her unless reduced into writing and signed by the accused and the defense counsel. The signatures of the accused and the defense counsel either on the Pre-Trial Order or the Minutes of the Pre-Trial Conference, which embodies such admissions, shall suffice.

**Rule III (B), Sec. 3, last paragraph.** - For detained accused, if the period for submission of judicial affidavits and other evidence by the accused has not yet lapsed and no submission has been made on the date set for the arraignment and pre-trial, the court may proceed with the arraignment if the accused waives the court's consideration of his or her judicial counter-affidavit and/or the judicial affidavits of his or her witnesses in the determination of probable cause, without waiver of the admission of such judicial counter-affidavit and/or the judicial affidavits of his or her witnesses within a fresh period of ten (10) calendar days from the date of the arraignment and the pre-trial.

FORM NO. III(B)(a)-5-EP (Rule III(B), Section 5. Order for Arraignment and Pretrial; Plea of “Guilty”)

**O R D E R**

During the arraignment, accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of accused) assisted by counsel  de parte  de oficio, Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of counsel), was furnished a copy of the Information which was also read to him/her in  English  Filipino  other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (language/dialect), a language known to and understood by the accused.

Upon arraignment, the accused pleaded “GUILTY.” The accused maintained his/her guilt even after being informed of the consequences of such plea. Thus, the plea of guilty is entered into the record of this case.

ACCORDINGLY, judgment is rendered finding the accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of accused) guilty of the crime of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as charged in the Information

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as bargained with the conformity of the

offended party;

private complainant;

public prosecutor.

ACCORDINGLY, the accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is sentenced to

suffer imprisonment of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Considering that the accused has already been detained for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ days, the sentence imposed by the court is deemed served.

The jail warden of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (detention facility) is directed to release from custody the person of the accused, unless he or she is being held for some other lawful cause.

pay the fine of ₱ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.00

with subsidiary imprisonment in case of insolvency

Considering that the accused has already been detained for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ days, a period more than sufficient for the service of subsidiary imprisonment, the sentence imposed by the court is deemed served.

The jail warden of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (detention facility) is directed to release from custody the person of the accused, unless he or she is being held for some other lawful cause.

The accused is directed to pay the private complainant the amount of ₱ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.00 as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ damages.

The office of the Clerk of Court of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is directed to release the cash bond posted by the accused or to a duly authorized representative under O.R. No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the amount of ₱ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.00, subject to the usual accounting/ auditing procedures.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III(B), Sec. 5. Arraignment and pre-trial. 4th paragraph.** – “If the accused pleads guilty to the original charge, the court shall forthwith sentence him or her.”

FORM NO. III(B)(b)-5-EP (Rule III(B), Section 5. Order for Arraignment and Pre-Trial; Plea of “Not Guilty”)

**O R D E R**

During the arraignment, accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of accused) assisted by counsel  de parte  de oficio, Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of counsel), was furnished a copy of the Information which was also read to him/her in  English  Filipino  other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (language/dialect), a language known to and understood by the accused.

Upon arraignment, the accused pleaded “NOT GUILTY” as charged in the Information. Accordingly, a plea of not guilty is entered into the record of this case.

Thereafter, the pre-trial proceeded wherein the following matters were taken-up:

**I. PROSECUTION’S EVIDENCE**

A. Documentary and other Object Evidence:

Exhibit "A" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "B" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "C" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

B. Testimonial Evidence:

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of witness, and date and time of presentation of testimony);

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of witness, and date and time of presentation of testimony);

Judicial Affidavit of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(state name of witness, and date and time of presentation of testimony);

C. Reserved Evidence:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

**II. EVIDENCE FOR THE ACCUSED**

A. Documentary and other Object Evidence:

Exhibit "A" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "B" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

Exhibit "C" - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Description);

B. Testimonial Evidence:

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

Judicial Affidavit of \_\_\_\_\_\_\_\_ \_\_\_\_\_\_ (date and time);

C. Reserved Evidence:

Object \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Document \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

Testimony \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Description);

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

**III. ADMISSIONS AND STIPULATIONS**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IV. ISSUES**

A. Issue/s of Fact

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Issue/s of Law

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The court will observe the One-Day Examination of Witness Rule. The trial dates are final and intransferable, and no dilatory motions for postponement shall be entertained by the court. If such motions are granted in accordance with the rules, the postponement/s by either party shall be deducted from such party’s allotted time to present evidence.

There being no other matters to be taken up, the pre-trial conference is now considered closed and terminated.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (B), Sec. 5. Arraignment and pre-trial.** — (a) Upon receipt of the case, the court shall set the arraignment and pre-trial within ten (10) calendar days for detained accused and thirty (30) calendar days for non-detained accused.

The notice of arraignment and pre-trial shall require the attendance of the accused and his or her counsel and all defense witnesses, the private complainant and his or her witnesses, the public prosecutor and private prosecutor, where allowed, as well as the law enforcement agents assigned to the case.

Before arraigning the accused, the court shall inquire into the possibility of a plea bargain between the parties. If there is no plea bargain, the court shall arraign the accused on the original charge and enter his or her plea in the record.

If the accused pleads guilty to the original charge, the court shall forthwith sentence him or her.

If the accused offers to plead guilty to a lesser offense, the consent of the public prosecutor and the private complainant, or the law enforcement agent assigned to the case in victimless crimes, shall be secured, unless the latter are absent despite notice, in which case the consent of the public prosecutor shall suffice.

(b) After arraignment, the court shall conduct the Pre-Trial Conference in accordance with the Revised Guidelines for Continuous Trial of Criminal Cases.

No admission by the accused shall be used against him or her unless reduced into writing and signed by the accused and the defense counsel. The signatures of the accused and the defense counsel either on the Pre-Trial Order or the Minutes of the Pre-Trial Conference, which embodies such admissions, shall suffice.

FORM NO. III(B)-6-EP (Rule III (B), Section 6. Trial and Offer)

**O R D E R**

At today’s proceedings for presentation of  prosecution’s  defense’s evidence, the following are present:

accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name),

defense counsel Atty. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name), a  counsel de oficio  counsel de parte

public prosecutor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (sate name

private complainant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)

private prosecutor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name).

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Witness | Date and Time of Testimony | Substance of Testimony | Exhibits Identified |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |
| 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |  |

The testimony of the said witness is deemed terminated.

Set the continuation of the presentation of the  prosecution  defense evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_: \_\_\_  A.M.  P.M. as previously scheduled.

With no other witness to present, the prosecution formally offered its evidence consisting of the following:

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Considering the defense’s oral comment/opposition thereto, the prosecution’s Exhibits “\_\_” to “\_\_” with its sub-markings are admitted into the record/s as part of the evidence for the prosecution.

The following pieces of evidence are not admitted by the court:

|  |  |  |
| --- | --- | --- |
| EXHIBIT | DESCRIPTION | REASON |
|  |  |  |
|  |  |  |
|  |  |  |

As prayed for by the defense counsel and after considering the prosecution’s oral comment/opposition, the defense’s oral motion for leave to file demurrer to evidence is

GRANTED. Accordingly, the defense is given an unextendible period of ten (10) calendar days to file its Demurrer to Evidence from today. The same period is given to the prosecution to file its Comment/ Opposition, after which, the matter is submitted.

DENIED. Accordingly, the initial presentation of the defense’s evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. shall proceed as previously scheduled.

With no other witness to present, the defense formally offered its evidence consisting of the following:

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Considering the prosecution’s oral comment/opposition thereto, the defense’s Exhibits “\_\_” to “\_\_” with its sub-markings are admitted into the record/s as part of the evidence for the defense.

Set the promulgation of judgment on \_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. as previously scheduled.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III(B), Sec. 6. Trial and Offer.** – “At the trial, the testimonies of witnesses shall consist of the duly subscribed written statements given to law enforcement agents, or the affidavits or counter-affidavits submitted before the investigating officer, or their judicial affidavits, subject to cross, re-direct, and re-cross examination questions.”

FORM NO. III(B)(a)-6-EP (Rule III (B), Section 6. Prosecution’s Oral Offer and Defense’s Leave to File a Demurrer)

**O R D E R**

At today’s hearing, the prosecution presented its last witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) who testified based on the witness’s Judicial Affidavit dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on  cross,  redirect, and  recross examination. Thereafter, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Private/Public Prosecutor, terminated the testimony of the witness.

With no other witness to present, the defense formally offered its evidence consisting of the following:

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Exhibit “\_\_” – \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (description);

Considering the defense’s oral comments,  the prosecution’s Exhibits “\_\_” to “\_\_” with its sub-markings are admitted  the prosecution’s Exhibits “\_\_” to “\_\_” with its sub-markings are denied admission because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).

As prayed for by the defense counsel and after considering the prosecution’s oral comment, the defense’s oral motion for leave to file demurrer to evidence is

GRANTED. Accordingly, the defense is given an unextendible period of ten (10) calendar days from today to file a Demurrer to Evidence. The same period is given to the prosecution to file a Comment. Thereafter, the Demurrer shall be submitted for resolution with or without a Comment.

DENIED.

The initial presentation of defense evidence on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. shall proceed as previously scheduled, without prejudice to the resolution of the Demurrer to Evidence, if one is filed.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III(B), Sec. 6. Trial and Offer. 4th paragraph.** – “The prosecution shall have sixty (60) calendar days to complete its evidence presentation. On the last day of its presentation of evidence, the public prosecutor shall orally offer the prosecution evidence. The defense counsel shall then make his or her oral comments on the offer, and thereafter, the court shall orally resolve the offer of evidence of the prosecution. The ruling shall be embodied in the written order the court will issue thereafter.”

**Rule 33, Sec. 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.

**Rule 33, Sec. 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.

FORM NO. III(B)(b)-6-EP (Rule III (B), Section 6. Defense’s Oral Offer)

**O R D E R**

At today’s hearing, the defense presented its last witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) who testified based on the witness’s Judicial Affidavit dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on  cross,  redirect, and  recross examination. Thereafter, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Defense Counsel terminated the testimony of the witness.

With no other witness to present, the defense formally offered its evidence as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| Exhibit Letter | Description | Purpose | Objection |
|  |  |  |  |

Considering the prosecution’s oral comments,  the defense’s Exhibits “\_\_” to “\_\_” with its sub-markings are admitted  the defense’s Exhibits “\_\_” to “\_\_” with its sub-markings are denied admission because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).

The prosecution will not offer rebuttal evidence.

The promulgation of judgment shall proceed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M., as previously scheduled.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (B), Sec. 6. Trial and Offer. 5th paragraph.** – “The defense shall also have sixty (60) calendar days to complete its evidence presentation. On the last day of its presentation of evidence, the defense counsel shall orally offer the defense evidence. The public prosecutor shall then make his or her oral comments on the offer, and thereafter, the court shall orally resolve the offer of evidence of the defense. The ruling shall be embodied in the written order the court will issue thereafter.”

**Sec. 7. Judgment.** – The court shall render and promulgate the judgment no later than thirty (30) calendar days from the court’s action on the last presenting party’s offer of evidence.

FORM NO. III(B)(c)-6-EP (Rule III (B). Action on Motion for Postponement)

**O R D E R**

Pursuant to Rule III (B), Section 6 of the Rules on Expedited Procedures in the First Level Courts, the  prosecution’s  defense’s Motion for Postponement filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is:

GRANTED considering that the ground/s is/are based on:

acts of God, particularly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons);

force majeure, particularly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons);

duly substantiated physical inability of the counsel or witness, particularly \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).

ACCORDINGLY, the presentation of  prosecution’s  defense’s evidence today is reset to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_: \_\_  A.M.  P.M. as previously scheduled.

The  prosecution  defense shall only have the remaining trial dates assigned to complete the presentation of evidence.

DENIED considering that the grounds are not based on acts of God, force majeure, or duly substantiated physical inability of the counsel or witness, considering \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons).

ACCORDINGLY,

the  prosecution  defense presented its witness \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with the party moving for postponement being considered to have waived its right to cross-examine and interpose objections.

the  prosecution  defense shall only have the remaining trial dates assigned to complete the presentation of evidence.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (B), Sec. 6. Trial and Offer. 7th paragraph.** – “A motion for postponement of any trial date shall be presumed dilatory and denied outright, unless grounded on acts of God, force majeure, or duly substantiated physical inability of the counsel or witness. Any postponement granted by the court for the authorized causes shall not extend the period for presentation of a party’s evidence. The party who sought the postponement shall only have the remaining trial dates assigned to him or her to complete his or her evidence presentation.”

FORM NO. III(C)-1-EP (Rule III (C), Action on Ordinary Appeal)

**O R D E R**

Pursuant to Rule III (C), Section 1 of the Rules on Expedited Procedures in the First Level Courts, the Notice of Appeal filed by the accused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) is:

GRANTED, considering that it was filed within the reglementary period and the appeal fees have been paid, under O.R. No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

ACCORDINGLY, let the records of this case be forwarded to the Regional Trial Court of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for further proceedings.

DENIED, considering

that it was filed beyond the reglementary period; and/or

the non-payment of appeal fees.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule III (c), Sec. 1. Ordinary Appeal.** – “Any judgment, final order, or final resolution in a Summary Procedure case may be appealed to the appropriate Regional Trial Court exercising jurisdiction over the territory under Rule 40 for civil cases and Rules 122 for criminal cases, of the Rules of Court. The appeal shall be taken by filing a notice of appeal, together with proof of payment of the appeal fees, with the court that rendered judgment, order or resolution appealed from, within fifteen (15) calendar days from receipt of the same.”

**Rule 40, Sec. 1. Where to appeal.** — An appeal from a judgment or final order of a Municipal Trial Court may be taken to the Regional Trial Court exercising jurisdiction over the area to which the former pertains. The title of the case shall remain as it was in the court of origin, but the party appealing the case shall be further referred to as the appellant and the adverse party as the appellee

FORM NO. IV-9-EP (Rule IV: Re-docketing and Payment of Deficiency Fees)

**O R D E R**

Pursuant to Rule IV, Section 9 of the Rules on Expedited Procedures in the First Level Courts, the court finds that the claim:

is more than One Million Pesos (₱1,000,000.00), exclusive of interests and costs,

is not one of those claims governed by the Rule on Small Claims,

ACCORDINGLY, let the case be re-docketed as an action governed by

the Rules on Civil Procedure in ordinary civil actions

the Revised Rule on Summary Procedure

The Office of the Clerk of Court is directed to return to this court the re-docketed case within five (5) calendar days[[24]](#footnote-24) from receipt of this Order, unless there is a deficiency in the filing fees, in which case, the plaintiff is directed to pay the same within five (5) calendar days[[25]](#footnote-25) from receipt of the assessment.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**5th paragraph of Sec. 9** – “However, if the case does not fall under this Rule, but falls under summary or regular procedure, or if the case is filed under summary or regular procedure but falls under this Rule, the case shall not be dismissed. Instead, the case shall be re-docketed under the appropriate procedure, and returned to the court where it was assigned, subject to payment of any deficiency in the applicable regular rate of filing fees.”

***\*****Note: If there is an excess in the filing fees as originally paid, the Court shall order the refund of the excess amount to the plaintiff.*

FORM NO. IV(a)-9-EP (Rule IV, Outright Dismissal of the Small Claim)

**O R D E R**

Pursuant to Rule IV, Section 9 of the Rules on Expedited Procedures in the First Level Courts, an examination of the allegations in the Statement of Claim and the evidence attached shows that:

the court has no jurisdiction over the subject matter.

there is another action pending between the same parties for the same cause.

the action is barred by prior judgment.

the claim is barred by the statute of limitations.

the court has no jurisdiction over the person of the defendant.

the venue is improperly laid.

the plaintiff has no legal capacity to sue.

the Statement of Claim/s states no cause of action.

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

the plaintiff failed to submit the required affidavits, as provided in Section 7 of this Rule.

ACCORDINGLY, the case is DISMISSED  with  without prejudice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**1st paragraph of Sec. 9** – “After the court determines that the case falls under this Rule, it may, from an examination of the allegations of the Statement of Claim/sand such evidence attached thereto, on its own initiative, dismiss the case outright on any of the following grounds: (a) The court has no jurisdiction over the subject matter; (b) there is another action pending between the same parties for the same cause; (c) the action is barred by prior judgment; (d) the claim is barred by the statute of limitations; (e) the court has no jurisdiction over the person of the defendant; (f) venue is improperly laid; (g) plaintiff has no legal capacity to sue; (h) the Statement of Claim/s states no cause of action; (i) that a condition precedent for filing the claim has not been complied with; and (j) plaintiff failed to submit the required affidavits, as provided in Section 7 of this Rule.)

FORM NO. IV(b)-9-EP (Rule IV, Dismissal When Grounds Determined Only During Hearing)

**O R D E R**

Pursuant to Rule IV, Section 9 of the Expedited Rules for First Level Courts, the court, during the hearing, determined that:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state reasons), a ground for the dismissal of the Small Claim, exists.

ACCORDINGLY, the case is DISMISSED  with  without prejudice.

plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ misrepresented that he/she/it is not engaged in the business of lending, banking, or similar activities when in fact the plaintiff is so engaged, as shown by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (cite proof)

ACCORDINGLY, the case is DISMISSED with prejudice.

The plaintiff is directed to show cause, within five (5) calendar days from receipt of this Order, why the court should not cite him/her/it for direct contempt for the said misrepresentation.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 9. Dismissal of the Claim.** — After the court determines that the case falls under this Rule, it may, from an examination of the allegations of the Statement of Claim/s and such evidence attached thereto, on its own initiative, dismiss the case outright on any of the following grounds:

(a) The court has no jurisdiction over the subject matter;

(b) There is another action pending between the same parties for the same cause;

(c) The action is barred by prior judgment;

(d) The claim is barred by the statute of limitations;

(e) The court has no jurisdiction over the person of the defendant;

(f) Venue is improperly laid;

(g) Plaintiff has no legal capacity to sue;

(h) The Statement of Claim/s states no cause of action;

(i) That a condition precedent for filing the claim has not been complied with; and

(j) Plaintiff failed to submit the required affidavits, as provided in Section 7 of this Rule.

The order of dismissal shall state if it is with or without prejudice.

If, during the hearing, the court is able to determine that there exists a ground for dismissal of the Statement of Claim/s, the court may, on its own initiative, dismiss the case even if such ground is not pleaded in the defendant's Response (Form 3-SCC).

If plaintiff misrepresents that he/she/it is not engaged in the business of lending, banking, or similar activities when in fact he/she/it is so engaged, the Statement of Claim/s shall be dismissed with prejudice and plaintiff shall be meted the appropriate sanctions, including citation for direct contempt.

However, if the case does not fall under this Rule, but falls under summary or regular procedure, or if the case is filed under summary or regular procedure but falls under this Rule, the case shall not be dismissed. Instead, the case shall be re-docketed under the appropriate procedure, and returned to the court where it was assigned, subject to payment of any deficiency in the applicable regular rate of filing fees.

**Rule 71, Sec. 1. Direct contempt punished summarily.** — A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court.

FORM NO. IV-12-EP (Rule IV, Section 12; Service of Summons by Plaintiff and/or Representative)

**O R D E R**

Pursuant to Rule IV, Section 12 of the Rules on Expedited Procedures in the First Level Courts, considering that

the summons was returned without being served on defendant/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of defendant/s), per \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (identify proof of service of summons, i.e. the Sheriff’s or Process Server’s Return)

defendant/s  resides  holds office outside the judicial region of this court,

the  plaintiff or  his/her/its duly authorized representative is DIRECTED to serve the Summons and Notice of Hearing with the Statement of Claim and Response Form to the defendant/s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name/s of defendant/s) and to inform this court of such service within thirty (30) calendar days from receipt of this Order. Otherwise, the case shall be dismissed without prejudice as to the defendants who are not served with Summons.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 12. Service of Summons.** —

(a) The Summons and Notice of Hearing must be issued within twenty-four (24) hours from receipt of the Statement of Claim/s.

The Summons, together with the Notice of Hearing, shall be served by the sheriff, his or her deputy, or other proper court officer within ten (10) calendar days from issuance. Within five calendar (5) days from such service, the Officer's Return shall be filed with the court with a copy furnished to the plaintiff at the given address/es of record.

(b) If Summons is returned without being served on any or all of the defendants, the court shall order the plaintiff or his or her representative to serve or cause the service of Summons.

(c) In cases where Summons is to be served outside the judicial region of the court where the case is pending, the court may order the plaintiff or his or her representative to serve or cause the service of Summons.

(d) 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.

(e) If the plaintiff misrepresents that the defendant was served with 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 declared in indirect contempt under Rule 71 of the Rules of Court, and/or be meted a fine in the amount of P5,000.00.

(f) In both instances under paragraphs (b) and (c), the plaintiff shall inform the court within thirty (30) calendar days from notice if said Summons was served; otherwise, the Statement of Claim/s shall be dismissed without prejudice as to those who were not served with Summons. This is not a ground to archive the case. The case, however, may be re-filed within one year from notice of dismissal, subject to payment of reduced filing fees under Section 8 hereof.

FORM NO. IV-12(f)-EP (Dismissal for Failure to Submit a Return or Manifestation by Plaintiff)

**O R D E R**

Pursuant Rule IV, Section 12 of the Rules on Expedited Procedures in the First Level Courts, the claim is DISMISSED without prejudice as to the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) because the  plaintiff  plaintiff’s representative failed:

to serve the Summons, Notice of Hearing, Statement of Claim, and Response Form to the defendant/s within thirty (30) calendar days from receipt of the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

to submit a return or a manifestation informing the court if the Summons was served or not within thirty (30) calendar days from receipt of the Order dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Section 12(f).** – In both instances under paragraphs (b) and (c), the plaintiff shall inform the court within thirty (30) calendar days from notice if said Summons was served; otherwise, the Statement of Claim/s shall be dismissed without prejudice as to those who were not served with Summons. This is not a ground to archive the case. The case, however, may be re-filed within one year from notice of dismissal, subject to payment of reduced filing fees under Section 8 hereof.

*\*Note: The Court can render judgment with respect to the defendant who was served with Summons, without prejudice to the plaintiff’s cause of action against the unserved defendant*

FORM NO. IV-12(e)-EP (Dismissal of Claim Due to the Plaintiff’s Misrepresentation)

**O R D E R**

Pursuant to Rule IV, Section 12 (e) of the Rules on Expedited Procedures in the First Level Courts, the claim is DISMISSED with prejudice and the entire proceedings are NULLIFIED due to the plaintiff’s misrepresentation that the service of summons to the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) was effected, when in fact no such service was made.

ACCORDINGLY, the  plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)  plaintiff’s representative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is DIRECTED to show cause, within five (5) calendar days from receipt of this Order, why he/she/it should not be cited in contempt of court.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 12(e).** – “If the plaintiff misrepresents that the defendant was served with 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 declared in indirect contempt under Rule 71 of the Rules of Court, and/or be meted a fine in the amount of ₱5,000.00

**Rule 71, Sec. 3. Indirect contempt to be punished after charge and hearing**. — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt;

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings. (3a)

FORM NO. IV-14-EP (Effect of Failure to File Response)

**O R D E R**

Pursuant to Rule IV, Section 14 of the Rules on Expedited Procedures in the First Level Courts, considering that the defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) failed to file a response within the required period:

and failed to appear at today’s hearing despite notice, the claim is now SUBMITTED for decision.

but appeared at today’s hearing:

offered his defense and presented documentary evidence in support thereof. Following Rule III(B). Section 14 of the Revised Rules on Expedited Procedures on First Level Courts, defendant is directed to submit the original copies of said documents within three (3) calendar days from today. The claim shall be considered submitted for decision after the court’s receipt of said documents or the expiration of the prescribed period.

offered his defense but did not present any documentary evidence in support thereof. Following, Rule III(B). Section 14 of the Revised Rules on Expedited Procedures on First Level Courts, the claim is now submitted for decision.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 14, 2nd paragraph. Effect of Failure to File Response.** – “Should the defendant fail to file his/her/its Response within the required period but appear on the date set for hearing, the court shall ascertain what defense he/she/it has to offer, which shall constitute his/her/its Response, proceed to hear the case on the same day as if a Response has been field and, thereafter, render judgment within twenty-four (24) hours from the termination of the hearing. If the defendant relies on documentary evidence to support his defense, the court shall order him/her/it to submit original copies of such documents within three (3) calendar days from the termination of the hearing and, upon receipt thereof or expiration of the period to file, the court shall render judgment within twenty-four (24) hours.”

**Rule IV, Sec. 19, 2nd paragraph.** – Failure of the defendant to appear shall have the same effect as failure to file a Response under Section 14 of this Rule. This shall not apply where one of two or more defendants who are sued under a common cause of action and have pleaded a common defense appears at the hearing.

FORM NO. IV-19-EP (Plaintiff and Defendant Failed to Appear)

**O R D E R**

Pursuant to Rule IV, Section 19 of the Rules on Expedited Procedures in the First Level Courts, the  claim  counterclaim is/are DISMISSED with prejudice in view of the failure of both the  plaintiff or  plaintiff’s representative and the  defendant or  defendant’s representative to appear at today’s hearing, despite notice.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 19, 3rd paragraph.** – “Failure of both parties to appear shall cause the dismissal with prejudice of both the Statement of Claim/s and the counterclaim.”

**Rule IV, Sec. 17. Appearance.** — The parties shall personally appear on the designated date of hearing.

Appearance through a representative must be for a valid cause. The representative of an individual-party must not be a lawyer. Juridical entities shall not be represented by a lawyer in any capacity.

The representative must be authorized under a Special Power of Attorney (Form 7-SCC), board resolution or secretary's certificate, as the case may be, to enter into an amicable settlement of the dispute and to enter into stipulations or admissions of facts and of documentary exhibits.

FORM NO. IV(a)-19- EP (Rule IV, Section 19: Plaintiff’s Failure to Appear)

**O R D E R**

Pursuant to Rule IV, Section 19 of the Rules on Expedited Procedures in the First Level Courts, the Statement of Claim is DISMISSED with prejudice in view of the failure of the  plaintiff or  plaintiff’s representative to appear at today’s hearing, despite notice.

The counterclaim of the defendant is  likewise DISMISSED with consent  SUBMITTED for decision.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 19. Non-appearance of parties.** — Failure of the plaintiff to appear shall be cause for the dismissal of the Statement of Claim/s without prejudice. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on the counterclaim.

FORM NO. IV(b)-19-EP (Rule IV, Section 19: Defendant’s Failure to Appear)

**O R D E R**

Pursuant to Rule IV, Sections 14 and 19 of the Rules on Expedited Procedures in the First Level Courts, in view of the failure of the  defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name) or  defendant’s representative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name) to appear at today’s hearing, despite notice, the claim is SUBMITTED for decision as may be warranted by the facts alleged in the Statement of Claim and its attachments.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 14. Effect of Failure to File Response.** — Should the defendant fail to file his/her/its Response within the required period, and likewise fail to appear on the date set for hearing, the court shall render judgment within twenty-four (24) hours from the termination of the hearing, as may be warranted by the facts alleged in the Statement of Claim/s and its attachments.

**Rule IV, Sec. 19. 2nd paragraph.** Failure of the defendant to appear shall have the same effect as failure to file a Response under Section 14 of this Rule. This shall not apply where one of two or more defendants who are sued under a common cause of action and have pleaded a common defense appears at the hearing.

FORM NO. IV-20-EP (Postponement When Allowed)

**O R D E R**

Pursuant to Rule IV, Section 20 of the Rules on Expedited Procedures in the First Level Courts, upon request by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of party), after payment of the postponement fee, the  plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)  plaintiff’s representative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)  defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)  defendant’s representative’s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) request for postponement is GRANTED considering the submission of proof of physical inability to appear before the court.

ACCORDINGLY, the hearing today is reset to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_: \_\_\_  A.M.  P.M.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 20. Postponement When Allowed.** – “A request for postponement of a hearing may be granted only upon proof of physical inability of the party to appear before the court on the scheduled date and time. A party may avail of only one (1) postponement.

**Rule II, Sec. 2. Prohibited pleadings and motions**. — The following pleadings, motions, or petitions shall not be allowed in cases governed by these Rules:

(j) Dilatory motions for postponement. Any motion for postponement shall be presumed dilatory unless grounded on acts of God, force majeure, or physical inability of a counsel or witness to personally appear in court, as supported by the requisite affidavit and medical proof;

FORM NO. IV-22-EP (Compromise Agreement, Approval and Confirmation)

**O R D E R**

Pursuant to Rule IV, Section 22, the Compromise Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, signed by both parties \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state names)

was submitted to the Court for approval at today’s hearing.

ACCORDINGLY, judgment is rendered based on the said Compromise Agreement as follows:

(copy terms of Compromise Agreement)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

was submitted to the Court for approval, but \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of non-appearing party) failed to confirm the same at today’s hearing.

ACCORDINGLY, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name of non-appearing party) is directed to confirm the same within three (3) calendar days from receipt of this Order. Otherwise, the Compromise Agreement shall be deemed confirmed.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 22. Hearing. 3rd paragraph** - “If at any time before or at the hearing, a compromise agreement is submitted, signed by both parties, but only one (1) or neither party appears to confirm it, the court shall issue an order directing the non-appearing party/ies to confirm the compromise agreement within three (3) calendar days from notice thereof; otherwise, it shall be deemed confirmed.”

FORM NO. IV-25-EP (Order of Execution)

**O R D E R**

Pursuant to Rule IV, Section 25 of the Rules on Expedited Procedures for First Level Courts, the Motion for Execution filed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the  plaintiff \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name)  defendant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state name) is GRANTED considering the proof of receipt of the court’s Decision by the  plaintiff  defendant, which was received on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date of receipt by the liable party).

ACCORDINGLY, let a Writ of Execution be issued to enforce the Decision dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

SO ORDERED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Place Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge

Notes:

**Rule IV, Sec. 25. Execution.** – “When the decision is rendered and proof of receipt thereof is on record, execution shall issue (Forms 13-SCC, 13-A-SCC/ or 13-B-SCC) upon *ex parte* motion of the winning party (Form 12-SCC). However, a decision based on compromise shall not be covered by the requirement of proof of receipt.”

1. Judge may provide discussion of reason/s here. [↑](#footnote-ref-1)
2. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-2)
3. Period is mandatory. [↑](#footnote-ref-3)
4. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-4)
5. Period is mandatory. [↑](#footnote-ref-5)
6. Optional space for additional remarks or discussion by the judge. [↑](#footnote-ref-6)
7. Optional space for additional remarks or discussion by the judge. [↑](#footnote-ref-7)
8. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-8)
9. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-9)
10. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-10)
11. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-11)
12. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-12)
13. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-13)
14. Period may be increased, but not reduced, in the judge’s discretion. [↑](#footnote-ref-14)
15. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-15)
16. Period is mandatory. [↑](#footnote-ref-16)
17. Period is mandatory. [↑](#footnote-ref-17)
18. Period is mandatory. [↑](#footnote-ref-18)
19. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-19)
20. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-20)
21. Period is mandatory. [↑](#footnote-ref-21)
22. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-22)
23. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-23)
24. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-24)
25. Period may be lessened or increased, in the judge’s discretion. [↑](#footnote-ref-25)