



Supreme Court of the Philippines

SUB COMMITTEE ON THE REVISION OF RULES ON CIVIL PROCEDURE

Re : PROPOSED RULES FOR HEARING AND
ADJUDICATING DISPUTES

EXPLANATORY NOTE

The dockets of first and second level courts (lower courts, collectively) remain heavily congested especially in big cities where most people live. Cases are postponed because judges are unable to hear the thirty to sixty cases on their calendars each day. These delays cause parties to simply give up and forego their remedies. Forty percent of persons accused of crimes walk away free because complainants and witnesses stop coming after too many postponements.

The Supreme Court has introduced important changes like mediation and small claims courts but these have not been enough. The case congestions and delays have prompted the Sub Committee to examine the existing system for hearing and adjudicating disputes that we have inherited from Americans a hundred years ago. It proved good in the horse and buggy era when people and transactions were few but it is a huge burden today in our bustling cities that teem with people and goods.

The proposed rules establish a new model for hearing and adjudicating claims. This is new to us but it is already being practiced by most countries with minor variations to suit their respective cultures. These rules seek to limit hearings in run-of-the-mill disputes, which constitute about eighty percent of all cases, to only two hearings: a preliminary conference and an adjudication hearing.

1. The preliminary conference will identify the factual and legal issues and ensure the submission of the judicial affidavits of the parties and their witnesses, including documentary evidence.

2. The adjudication hearing, on the other hand, will assemble all the parties and their witnesses and examine them based on their affidavits in a free-flowing fashion but strictly in the order in which the issues have been identified. After the examination of witnesses by both judge and counsels have been exhausted, the court will announce its findings face-to-face and release its written decision within fifteen days. Appeal in the case of the first level courts will be a one-hearing affair with adjudication at the end of the hearing.

To address concerns that laws and rules tend to have a bias in favor of the male gender, the revision committee decided to use “persons” to refer to both men and women and alternately use “she,” “her,” and “hers” or “he,” “him,” and “his” for pronouns that refer to either gender. Using “he or she,” “her or him,” and “hers or his” would hinder the flow of thoughts and make reading cumbersome.

PROPOSED RULES FOR HEARING AND ADJUDICATING DISPUTES

Section 1. *Scope.* – Except for small claims cases, these rules shall govern the procedure in all civil and criminal actions cognizable by first and second level courts. The first level courts consist of the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts. The second level courts consist of the Regional Trial Courts.

A. CIVIL ACTIONS

Sec. 2. *Pleadings.* – All pleadings shall be verified by the parties by stating under oath that they have read the same and that the facts so stated are true and correct of their personal knowledge or based on authentic records. Complaints and permissive counterclaims shall contain a certification under oath that no other action between the parties, involving the same claim or claims, is pending in any other court, body, or tribunal. Should the party omit this requirement and the other technical requirements for pleadings, the branch clerk of court shall require him to comply with the same within five days from notice. Failure to comply shall be ground for dismissing the complaint and counterclaim and expunging the defective pleading.

Note: Since it might be too expensive for some parties to retain the services of highly skilled counsels, the courts should be lenient in treating the technically deficient pleadings.

Sec. 3. *Prohibited motions and matters.* – The following motions and matters are prohibited: (a) motion to dismiss; (b) **motion to file amended pleadings**; (c) motion for a bill of particulars; (d) motion for intervention; (e) demurrer to evidence; (f) motion for judgment on the pleadings; (g) motion for summary judgment; (h) motion for reconsideration; (i) motion for new trial; (j) motion for extension of time to file pleadings, **with the exception of the answer, or to submit** affidavits, or any other paper; and (k) any **similar** motion or matter that will hold in abeyance, delay, or prejudice the hearing of the case on its merits.

Note: Unfortunately, experience shows that pre-positioning by the parties prior to trial, like filing a motion to dismiss or a bill of particulars, which were intended to promote efficiency in the conduct of hearings, have often been taken advantage of to delay the hearing and adjudication of the case on its merits. One of the core objectives of the

proposed rules is the avoidance of incidents that will cause the proceeding on the merits to bog down. There is a determined speed to get the judge to address the merits of the case as soon as the complaint and the answer have been filed. This is a new philosophy we recommend for adoption.

Sec. 4. *Complaint.* – (a) The plaintiff shall set out in her complaint the facts constituting the defendant’s violation of her right or rights, stating the date, the place, and the other circumstances that will aid the court in understanding the nature and scope of such violation.

Note: One of the central objectives of these proposed rules is the reduction in volume of papers that the parties have to file in court. All that the court really needs to prepare for hearing and adjudicating a case are the parties’ basic claims, the issues, and the evidence. Courts must keep the incidents at a minimum. Pre-trial briefs, formal offers of documentary exhibits, and other papers merely echo what the verified complaint and answer already contain. Too many motions or papers filed in court usually create conflicts that some parties exploit to elevate incidents to the appellate courts, which contribute to further delays.

(b) The court may, from the examination of the complaint, dismiss the case outright on any of the grounds for dismissal of a civil action.

(c) Unless the complaint is ordered dismissed, the court shall cause the issuance of summons.

Sec. 5. *Answer.* – (a) Within fifteen days from service of the summons and its accompanying complaint, the defendant shall file his answer, pleading as an affirmative defense any ground for dismissal as he may have, and serve a copy of such answer on the plaintiff.

(b) The defendant shall answer the complaint by denying specifically each of its factual allegations that are untrue. He shall also set out all the affirmative and special defenses available to him, otherwise, they shall be deemed waived. When denying a fact, the defendant must state his reason for such denial or state that he has no knowledge of the truth or falsity of the asserted matter.

(c) Cross-claims against a co-defendant and compulsory counterclaims against the plaintiff existing at the time of the filing of the complaint, when not asserted in the answer, shall be considered barred.

(d) The plaintiff against whom a permissive counterclaim is made or the defendant against whom a cross-claim is made shall file his answer with the court and serve a copy on the counterclaimant or cross-claimant within ten days from his receipt of such permissive counterclaim or cross-claim.

Sec. 6. *Effect of failure to answer complaint, permissive counterclaim, or cross-claim.* – (a) A party who fails to file an answer to the complaint, permissive counterclaim, or cross-claim shall be deemed to have admitted the pleaded allegations. The court shall, within fifteen days from the expiration of the period

for filing the answer, render judgment in the case as the verified complaint, permissive counterclaim, or cross-claim may warrant.

(b) Within five days from receipt of a copy of the judgment or learning of it, the defendant may file a motion to set aside the judgment on the ground that his failure to file an answer was due to fraud or unavoidable accident, attaching an affidavit of merits and his answer. Only when the ground is clearly meritorious will the court grant the motion. It may also, while granting the motion, impose a fine of not less than P1,000.00 nor more than P5,000.00 on the defaulting party or his counsel, whoever may appear at fault.

Sec. 7. *Contact number; email address.* – The parties or their counsels shall add to their addresses appearing on the complaint or the answer their telephone or mobile phone numbers and email addresses to expedite communications when warranted.

Note: Based on experience, courts set initial hearings without consulting the calendars of the parties or their lawyers with the result that such hearings are often postponed, thus starting the case on the wrong foot. Not too infrequently as well, judges attend seminars or go on leave, yet the court does not bother to call the parties or their counsels about it. Consequently, the latter unnecessarily waste their time and incur expenses that could have been avoided.

Sec. 8. *Mediation.* – Within five days from the filing of the last expected answer to the complaint, the counterclaim, or the cross-claim, the court shall refer the parties to mediation or judicial dispute resolution, if applicable, in accordance with law and the rules.

Sec. 9. *Judicial Affidavits and Exhibits.* – **(a) If no settlement is reached, the branch clerk of court shall, within five days from issuance of a certificate of failed mediation or judicial dispute resolution, if applicable, issue a notice to the parties, requiring them to submit, within ten days from their receipt of such notice (i) their respective individual affidavits and those of their witnesses in support of their allegations, which shall already serve as their direct testimony; and (ii) their documentary evidence, if any, on which they rely to prove their respective claims, marking the documents as Exhibits A, B, C, and so on in the plaintiff's case and as Exhibits 1, 2, 3, and so on in the defendant's case. The affidavits shall authenticate such documents.**

(b) Judicial affidavits shall faithfully record the questions asked of the witnesses and the actual answers they give. Counsel who conducts the examination of a witness to get his judicial affidavit shall be responsible for the fidelity of its recording. Such affidavits shall state the dates and places and such other circumstances as would indicate how the affiants acquired personal knowledge of the facts they state in the same.

Sec. 10. *Effect of failure to submit requirements.* – Any party who fails to submit any of the above requirements despite notice shall be deemed to have waived their submission. This notwithstanding, the court may, on valid ground and prior to the date set for preliminary conference in the case, allow the late

submission of the requirements. It may also, while allowing such late submission, impose a fine of not less than P1,000.00 nor more than P5,000.00 on the defaulting party or his counsel, **whoever** may appear at fault.

Sec. 11. Preliminary conference. – (a) Not later than ten days after the filing of the requirements provided in Section 9 above or, if the same have not been filed, not later than ten days after they fell due, the branch clerk of court shall, after communicating and agreeing on a date with the parties or their counsels, set the case for a preliminary conference. He shall then confirm this agreement by written notice sent to such parties or their counsels at least twenty days before the date of such conference.

(b) The court shall draft a summary of the conflicting factual claims of the parties and a statement of the factual and legal issues that it needs to resolve. An issue is factual when the contending parties cannot agree that a thing exists or has actually happened with their attendant circumstances. An issue is legal when the contending parties assume a thing exists or has actually happened with their attendant circumstances but disagree on its legal significance or effect on their rights or obligations. The presiding judge shall have a direct hand in drawing up the issues in the case to the end that his mastery of such issues will enable him to direct the proceedings towards their prompt conclusion.

Note: This is the only pre-work required of the presiding judge and it is of great importance since only by knowing the factual issues of the case can she effectively keep control of the direction that the hearing will take. The parties are later required to validate such statement of the factual issues during a pretrial conference called for that purpose. This is the practice at CIAC and it has worked very well for that tribunal. This is not an additional burden on the judge since she would anyway prepare her summary of the claims of the parties and statement of the issues when she writes her decision. She just does it in advance.

(c) The branch clerk of court shall attach copies of the court's draft of the summary of the conflicting claims and the statement of factual and legal issues to the notices of preliminary conference served on the parties with a request that they study the same for possible modification, if necessary, during such conference. The notices shall also require the parties to submit their respective memoranda **on the merits of the case, which memoranda the court may wholly or partly adopt with or without modification.**

Note: The parties need to have a hand in summarizing their conflicting claims and identifying the factual issues that divide them since these will define the limits of the judicial inquiry into the facts of the case. The court's burden in studying the case will be considerably lightened if the parties could submit memoranda of the applicable laws, rules, and jurisprudence.

(d) In the event the defendant or his counsel fails to appear at the conference, the court shall, within fifteen days from the date of the scheduled conference, render a decision, adjudicating plaintiff's claims.

Note: The summary of conflicting claims and statement of factual issues that the judge prepared in the case has multiple uses and this is one of them.

(e) In the event the plaintiff fails to appear at the conference, the court shall then and there dismiss the complaint and render a decision in the manner set out in paragraph (d) above, adjudicating defendant's counterclaim as may be warranted.

(f) The court may, however, set aside a judgment rendered under Section 11, paragraphs (d) or (e) if, within five days from receipt of a copy of the judgment or learning of it, the party concerned files a motion with the court with prior notice to the adverse party that his failure to appear at the preliminary conference was due to fraud or unavoidable accident. Only when the ground is clearly meritorious will the court grant the motion. It may also, while granting the motion, impose a fine of not less than P1,000.00 nor more than P5,000.00 on the defaulting party or his counsel, **whoever** may appear at fault.

(g) Where the parties are present, the court shall, with their cooperation, undertake to review and, if necessary, modify the court-drafted summary of the conflicting claims and statement of the factual and legal issues involved in the case. It shall also draw up the order in which the factual issues are to be heard and identify the witnesses who need to come to testify on the issues. The factual issues shall control the reception of the evidence of the parties at the hearing set for that purpose. All relevant facts alleged by the parties in their complaint, answer, and affidavits, when not put in issue, shall be deemed admitted.

Note: Based on experience, very few lawyers are willing to stipulate the facts of the case during pre-trial. But, when their opposing pleadings are compared, the factual issues that they tender stand out. After identifying these issues, there is no point in further asking the parties to enter into stipulations of facts. Attempts at stipulations merely cause delays because, as a rule, the parties and their lawyers are afraid or reluctant to concede any point to their opponents.

(h) The court shall then issue an order, adopting the summary of conflicting claims and the statement of the factual and legal issues thus prepared as the framework for the adjudication hearing that it shall set on a date most convenient to it and to the parties.

(i) The court may, during the preliminary conference, grant a request for the issuance of subpoenas *ad testificandum* or *duces tecum* only if the party procuring them has no other equivalent evidence available to him and the evidence sought is indispensable to a fact in issue. The party requesting the issuance of a subpoena shall bear the cost of its personal service upon the witness, the responsibility for ensuring that such service is made, and the witness' expense for coming to court. Failing in any of these, the requesting party shall be deemed to have waived the appearance of the witness.

(j) A party shall bring and produce during the preliminary conference the original of his exhibits for comparison; otherwise, he shall justify the reason for its non-production.

Sec. 12. *Dismissal of action.* – If, in the course of preparing the summary of the conflicting claims of the parties and the issues, the court finds any ground for dismissing the action based on the allegations of the pleadings, it shall do so. If evidence is required for adjudicating a ground for dismissal, the court shall set the case for reception of such evidence and dismiss the action if warranted.

Sec. 13. *Postponement or resetting.* – (a) Hearings set by the court as agreed upon by the parties shall not be subject to postponement or resetting, except for a fortuitous event, with the party who seeks the postponement or resetting of the hearing carrying the burden of proving her ground with satisfactory evidence. If such ground turns out to be false, counsel who must ascertain its truth shall be subject to contempt without prejudice to being charged for suspension or disbarment as the nature of her part in the misrepresentation or her neglect warrants.

(b) Any physician who issues a medical certificate must state that the illness of a party or her witness is of such gravity as to prevent her from attending the adjudication hearing. The court may require such physician to appear before it or order another physician, either government-employed or retained for that purpose by the adverse party, to verify the truth of the certification. If such certification turns out to be false, the certifying physician shall be held in contempt of court and punished accordingly.

(c) The presiding judge shall be responsible for seeing to it that hearings proceed as scheduled. Should she in turn not be available for some valid reason, she must issue an order setting forth such reason and get in touch with the parties or their counsel and reset the adjudication hearing on a date agreeable to all.

Note: A strong rule against any postponement of the adjudication hearing in a case is necessary because the absence of just one of the parties, or the lawyers, or the witnesses could derail the proceeding. It is important to stress the non-transferable character of an adjudication hearing.

Sec. 14. *Adjudication hearing.* – (a) The court shall hold an adjudication hearing which shall consist of an inquiry into the factual issues raised by the pleadings and an adjudication of the case on its merits. The court shall proceed to hear the case promptly at the designated time and shall not wait for the parties, counsels, or witnesses who are late. Those who come late may join the ongoing proceeding subject, at the discretion of the court, to the payment by the tardy participant of fine of not less than P1,000.00 nor more than P5,000.00, *provided*, that if it was counsel who arrived late, the fine should come from his personal account. Charging such amount to his client shall be a ground for disbarment.

(b) The court shall, as far as practicable, position the parties, their counsels, and witnesses in such a manner that they are able to see each other, thus facilitating the dialogue among them.

(c) The parties and their witnesses shall simultaneously swear to the truth of the testimonies they will give during the adjudication hearing.

(d) The court shall hear the factual issues of the case in the order in which these have been drawn up during the preliminary conference. Two or more intimately related issues may be heard together.

(e) Although the court stenographer shall take detailed notes of the proceeding and all the statements made in it, such notes shall be secondary to the electronic recording of the same, copy of which recording shall be made available to the parties at cost. Testimonies of witnesses, including the questions asked of them, if made in the vernacular or any local dialect need not be interpreted in English. They shall be preserved and used in their original version.

Note: The time used for trial is automatically doubled by the need for the interpreter to translate every question and answer given in Filipino into English.

The parties may, if they so desire, quote these testimonies in their pleadings and papers with their own English translations enclosed in parenthesis at the end of each quotation. The opposing side may comment on the accurateness of the translations but it is for the court to adopt in its order, resolution, or decision such version as it considers the more accurate.

(f) Should the presiding judge or any of the counsels of the parties be unfamiliar with the dialect that the witness uses, such judge or counsel shall arrange for his own interpreter to help him understand and examine the witness in the course of the proceeding.

(g) The court shall hear every case in one sitting except in complex cases where it may set one or two issues for hearing from day to day until such hearing is terminated.

Note: When a judge begins and concludes the hearing of the testimonies of the parties in just one sitting, he is able to see both sides and the whole picture of the case in one continuous process, enabling him to see every item of fact in the context of the whole. It is not surprising that the examination of just one witness under our present system could cover a whole year, with one fourth of the testimony taken up every three or four months. At the end of a four-year trial, the poor judge would hardly be able to remember what he heard in the early years. He would be unable to see the case in its wholeness. Piecemeal trial is a farce.

(h) The court shall exclude the affidavit of any party or witness who fails to appear as required at the scheduled adjudication hearing of the case. A party who fails to appear at the hearing shall also be deemed to have waived his right to confront the witnesses there present.

(i) The presiding judge shall have control of the inquiry into the factual issues of the case, its object being to enable him to fairly resolve those issues with the best possible evidence on hand. For this reason, he shall take an active part in examining the witnesses to ascertain that they speak the truth. **He shall also allow counsels from opposing sides with sufficient leeway to ask additional direct, cross, and rebuttal questions of the witnesses.**

Note: The Rules of Court have a colonial history, having been patterned after American models. The procedure they prescribe revolves around the American idea that litigants should have the option of being tried by a jury of peers. Under this procedure, the judge plays the role of some kind of a detached referee who sees to it that the parties abide by the rules, which require that only relevant and competent evidence reaches the ears of the jury. The object is to guard against inadmissible evidence that could unfairly prejudice the untrained minds of barbers, farmers, construction workers, and other ordinary folks who must decide all questions of fact.

(j) The examination by the court and counsels of the parties and their witnesses covering the specific factual issue being inquired into shall generally be free-flowing, controlled only (i) by the list of factual issues previously identified and (ii) by the order of examination of the witnesses as the court shall determine. The examination may shift from one witness to another, the object being to exhaust the issue at hand with the help of all available testimonies. The court shall take steps to ensure that the person who speaks is identified in the transcript of the hearing.

Note: The free-flowing character of the examination of all the witnesses from both sides at the same time, as opposed to the current practice of calling one witness at a time, promotes spontaneity in the answers given and vivid contrast between opposing versions. Still, order is maintained because questions focus on only one issue at a time and the presiding judge is around to maintain a one-mouth rule.

(k) The court shall encourage immediate response from a party or witness affected by the testimony of the other party or witness to maximize its ability to compare and assess conflicting testimonies on the particular factual issue.

Note: Until an accurate and reliable truth machine is invented, nothing beats face-to-face confrontation for sensing what is true. Conversation, says the Bible, is the test of a man. (Sirach 27:5, New American Bible) Unfortunately, those who drafted the current rules of summary procedure eliminated face-to-face confrontation in most civil actions even if, as everybody knows, cross-examination is easily the most effective tool for testing the credibility of witnesses. In the current rules of summary procedure, most civil cases are decided based on affidavits and position papers. Without face-to-face confrontation, victory is often snatched by the better writer of affidavits and position papers.

(l) Except for objections based on the right of a witness against self-incrimination or on his disqualification for any of the reasons stated in Sections 21, 22, 23, 24, and 25 of Rule 130 of the Rules of Evidence, objections to questions shall not be allowed but the court shall, applying the rules and using good sense, (i) keep the questions within the scope of what is relevant to the factual issue at hand and (ii) protect witnesses from improper and abusive questions, as well as from insulting and harsh treatment.

Where the answer of the witness violates any of the rules concerning best evidence, parol evidence, hearsay evidence, opinion evidence, and character evidence, a party may register his objection by simply uttering, after the answer has been made, the name of the rule violated, for example, the words “best evidence rule.” The court shall take note and, if proper, disregard such answer when deciding the case.

Note: Lawyers’ objections to questions asked during the examination of witnesses interrupt the flow of testimonies and delay the proceeding. Since, unlike the members of a jury, the Philippine judge knows when a piece of evidence is incompetent and worthless, the occasional unguarded introduction of such kind of evidence could not do the case too much harm and a simple reminder from the parties’ respective counsels of any violation of the rules would suffice.

(m) The documents previously marked by the parties as their exhibits shall be deemed offered as part of the testimonies of the witnesses and for the purposes that such testimonies indicate, whether expressly or impliedly.

Note: This dispenses with the cumbersome yet dispensable practice of having documentary evidence marked as exhibits in the course of the trial and making formal offers of them.

(n) When all questions on a particular issue shall have been answered and, in the mind of the court, fully exhausted, it shall shift the examination to the next factual issue.

Note: Tackling issues one by one gives focus to the examination of witnesses and minimizes the asking of questions that have already been answered.

(o) When the court has already taken up all the factual issues in the case, it may at its discretion allow each party to make a closing argument, starting with the plaintiff and finishing with the defendant for such period of time as it may fix.

Note: This gives the parties the chance to be heard on legal issues, namely, the effect or legal significance of given or assumed facts on the rights of the parties. But the court can dispense with this step in commonplace cases since the judge would be familiar with the usual arguments on the legal issues.

(p) After the parties have rested their cases, the court shall, unless the issues are exceptionally difficult and complex, immediately state its findings with respect to each of the factual issues that the case presents, resolve the legal issues, and announce its judgment in the presence of the parties, to be followed by the issuance of the corresponding written decision within fifteen days from the verbal adjudication. The verbal judgment shall be recorded in the minutes of the proceedings which, together with the resolution of each issue, shall be signed by the parties or their counsels. **Still, should the judge, on further reflection, find a need to change his verbal decision, he may do so, explaining the reason for such change.** If the issues are exceptionally difficult and complex, the court

shall issue a written decision within fifteen days from the date of the adjudication hearing.

Note: Prompt, face-to-face judging after hearing the parties and their witnesses has several advantages: a) the court will adjudicate the case at a moment when it has the clearest picture of the dispute, b) it deters deliberate injustice because the parties and the public also heard what evidence the judge heard, c) it avoids opportunity for putting undue pressure on the judge between the trial and judgment, d) it forces the judge to focus during the hearing on the facts he needs for rendering a fair judgment since he must immediately decide the case, and e) it makes a point for authentic speedy justice in our courts.

(q) For simplicity, the court may, in drafting its written decision, adopt the summary of conflicting claims and the statement of factual and legal issues that it earlier prepared with the parties, add its ruling with respect to each issue with a brief reason for such ruling, and provide for the specific reliefs that its findings warrant.

Note: Prompt face-to-face judging would not be too difficult for the judge since this covers familiar kinds of cases (ejectment, collection, damage to property) where the issues are everyday stuff and recur. In the future, the court could use a ruling format that could be ticked off on a template. Decision making will be substantially shortened, enabling the court to close and move on to other cases.

(r) In the alternative, the court may, after announcing its verbal decision, require the winning party to prepare within five days a draft of the decision along the lines of the rulings that the court verbally made and to copy furnish the losing party. The court may adopt this draft wholly or in part in the written decision that it shall release to them.

Sec. 15. *Appeal from the first level courts.* – (a) A party may appeal the first level court's decision or final order to the appropriate regional trial court by filing an appellant's memorandum with the court that decided the case, paying the required fees, and depositing with the clerk of court a sum equivalent to twenty percent of the judgment amount or by posting a surety of equivalent amount within fifteen days from receipt of that court's written decision or final order, serving a copy of the appellant's memorandum on the adverse party, who in turn shall have fifteen days from its receipt within which to file the appellee's memorandum. The deposit or surety requirement above shall not, however, apply to ejectment cases in which deposits of rentals are instead required.

(b) Within fifteen days from receipt of the appellee's memorandum or expiration of the time to file the same, the branch clerk of court shall transmit the record of the case and the memoranda of the parties to the appropriate regional trial court.

(c) Upon receipt of the record of the case and the memoranda of the parties, the branch clerk of court of the regional trial court shall immediately communicate with the parties or their counsel and agree on a date for appellate

hearing and adjudication and confirm this by proper written notice, which date shall not be later than forty-five days from receipt of the record.

(d) The regional trial court shall hear the parties on their arguments and immediately resolve the appeal in the presence of the parties, reserving the issuance of a written decision in fifteen days. The court may adopt in its decision the memorandum of the winning party or **portions** of such memorandum as it may see fit.

Note: Unless the appeal procedure before the regional trial court is also shortened and simplified, the achievement of the MTC would be for naught. The two courts should be determined to eliminate all sorts of delays.

(e) The decision of the regional trial court in civil cases governed by these rules shall be final, executory, and non-appealable.

Note: There is hardly any reason for claims cognizable by the MTCs to go through the entire judicial ladder.

Sec. 16. Adjudication hearing for all incidents. – The above rule for hearing factual issues through the affidavits of the parties and their witnesses and pre-marked documents, subject to free-flowing examinations of all witnesses present, shall also govern the hearing and resolution of applications for provisional remedies, special civil actions, and special proceedings as well as the hearing and resolution of all incidents in a case where the court needs to resolve factual issues that the parties raise.

Sec. 17. Appeals from the Regional Trial Court. – Appeals from the Regional Trial Courts shall continue to be governed by Rule 41 of the Rules of Civil Procedure.

B. CRIMINAL ACTIONS

*Sec. 18. How commenced. – Criminal actions shall be initiated before the first and second level courts in accordance with existing laws and rules. In every case, the complaint or information shall be accompanied by the affidavits of the complainant and his witnesses as well as other supporting documents in such number of copies as there are accused and one copy for the court. The complainant or the party filing the information shall attach to the affidavits such documentary evidence as he may have, marking them as Exhibits A, B, C, and so on. These affidavits shall when submitted serve as direct testimonies of the complainant and his witnesses. **Testimonies and exhibits not so submitted shall be barred.***

Note: As in the case of civil actions, the parties to criminal actions are required early in the proceedings to submit to the court their affidavits and documentary evidence as well as those of their witnesses.

Sec. 19. *Preliminary determination of the court.* – (a) Upon the filing of the complaint or information with the required attachments, the court shall make a preliminary determination of whether to dismiss the case on any valid ground for the quashal of the complaint or information or proceed as provided below.

(b) The court shall evaluate the evidence submitted by the prosecutor or, in case of direct filing with it, examine in writing and under oath the complainant and his witnesses, and determine if there is probable cause. If he finds none, he shall dismiss the case or require further evidence.

(c) In the first level courts, should the court find probable cause and the accused is a recidivist, a fugitive from justice, has no known address, or has supplied a false one, it shall issue a warrant for his arrest or a commitment order if said accused is already in custody and thereafter set the case for arraignment within ten days from receipt of the information with notice served through his jail warden; in other cases, (i) the accused in custody shall be granted temporary liberty pending his trial after a date for his arraignment has been set or (ii) if the accused is not in custody and no ground exists to have him committed, summons shall be issued to him at his last known address. In either case, the accused shall be furnished a copy of the complaint, affidavits of the complainant and his witnesses as well as their supporting documents, enabling to make up his mind whether or not to answer the complaint against him or maintain his right to silence.

(d) In the second level courts, should the court find probable cause, the judge shall issue a warrant for the arrest of the accused or a commitment order if the accused has been lawfully arrested without a warrant involving an offense which requires a preliminary investigation.

Sec. 20. *Bail or recognizance.* – In cases where a warrant of arrest or commitment order is issued, the accused shall be allowed provisional liberty either upon bail or recognizance as provided by law or the rules.

Sec. 21. *Waiver of Appearance.* – Except when the accused is not required by the court or these rules to be present, it shall be a condition to any bail or recognizance that his failure to appear at a hearing despite notice shall be a waiver of his right to be present at such hearing. Where the accused is not in custody, he shall, upon arraignment, submit a written waiver of his presence during the trial under the same condition required in bail or recognizance. If he refuses or fails to do so, the court may place him in custody pending the hearings to ensure his appearance.

Sec. 22. *Arraignment.* – (a) Within five days from the filing of the complaint or information with the required original or certified true copies of the affidavits in sufficient copies, the court shall issue the summons, enclosing a copy of the complaint or information with its attachments, requiring the accused to appear with his counsel of choice before the branch clerk on a particular date and time for arraignment.

(b) If the accused refuses or fails to respond to the summons, the branch clerk of court shall report the matter to the court that it may issue a warrant of arrest for such accused. If the accused appears, on the other hand, the branch

clerk of court shall read the complaint or information to him and ask him how he pleads to the accusation against him. If he appears without counsel, the clerk of court shall, if the accused agrees, request the Public Attorney's Office to represent him for the purpose of arraignment.

If the accused is in custody for the crime charged, the court shall immediately set the case for arraignment.

Note: It usually takes the lower courts about an hour to call the cases for arraignment, check the attendance of the accused concerned, record the appearances of their counsels, look for the complainants, deal with absences, have the informations read in their entirety, and hear and record the pleas of the accused. If the accused will plead not guilty to the offense charged, there seems to be no need for them to state their pleas before the court and consume its precious time. Consequently, this rule authorizes arraignment before the branch clerk of court when the accused intends to plead not guilty to the charge.

(c) If the accused wants to plead guilty to the charge, the branch clerk of court shall adjourn the arraignment to another date, in order that the accused may make such plea with the assistance of counsel in the court's presence. If the accused pleads guilty, the court shall forthwith promulgate the sentence.

(d) If, on the other hand, the accused pleads not guilty, he shall be asked if he desires to controvert the evidence presented against him. If he answers in the affirmative, he shall submit his counter affidavit and the affidavits of his witnesses within fifteen days, furnishing copies to the public prosecutor. If he answers in the negative, the court shall set the case for preliminary conference and adjudication hearing based on the evidence submitted by the prosecution. In either case, the branch clerk of court shall put the accused on written notice that, should he fail to appear at the preliminary conference and the adjudication hearing of his case, he shall be deemed to have waived his right to be present there.

Note: Since the accused has an absolute right not to give testimony in the case against him, trial may proceed based on the testimony of the prosecution witnesses only. The accused is allowed, however, to change his mind at the preliminary conference of his case and submit judicial affidavits.

(e) The accused shall attach to his counter-affidavit and the affidavits of his witnesses such documentary evidence as he may have, marking the evidence as Exhibits 1, 2, 3, and so on. These affidavits shall serve as direct testimonies of the accused and his witnesses when they appear before the court to testify.

Sec. 23. Preliminary conference in criminal cases. – (a) The court shall, upon receipt of the affidavits submitted by the accused, draft a summary of the conflicting factual claims of the parties and their witnesses and a statement of the factual and legal issues that the court needs to resolve.

(b) The branch clerk of court shall issue and serve on the parties a notice of preliminary conference, attaching copies of the court's draft of the summary of the conflicting claims and the statement of factual and legal issues, with a request that they study the same for possible modification, if this be needed, during such conference.

(c) In addition to finalizing the summary of the conflicting claims of the parties and the statement of the factual and legal issues involved in the case, the court may at the preliminary conference consider allowing the accused, with the public prosecutor's consent, to plead guilty to a lesser offense. The public prosecutor may consult the private complainant, if present, regarding such plea but the latter's consent need not be obtained.

(d) Should the accused who waived her right to submit counter-affidavits change her mind, she may for the last time submit the same at the preliminary conference of her case provided she had the opportunity to consider the affidavits and exhibits that the prosecution has submitted against her.

Sec. 24. *Adjudication hearing in criminal cases.* - (a) Where the crime charged is punishable by imprisonment of more than six years, the court shall, at the beginning of such hearing, require the prosecution witnesses to narrate, one after the other, the substance of their respective testimonies, immediately followed by the witnesses for the accused who shall testify in the like manner. The court and the counsels on the opposing sides, shall, at the end of the narrations from the opposing sides, then proceed to examine the witnesses in accordance with section 14. **In this way, the court shall have the additional benefit of observing the demeanor of the witnesses both on their testimonies in chief and on their cross-examination.**

Note: Making a narration is considered objectionable under the American model because of the need to protect the jury from hearing incompetent evidence inadvertently made during the narration. Since the judge can simply ignore incompetent evidence, there is no reason why unhampered narration, which is the natural way of telling a story, cannot be allowed. Adjudicative hearing can be no less exhaustive since the required proof of guilt to support conviction remains the same and since the right of the accused to be heard on his defense is undiminished.

(b) In the event the accused chooses not to submit counter-affidavits, the court and the parties shall examine the complainant and her witnesses based on their affidavits to determine whether or not the evidence adduced by the prosecution meets all the elements of the offense and establishes the guilt of the accused beyond reasonable doubt.

C. SUPPLEMENTARY RULES

Sec. 25. *Application of existing rules.*—The existing rules of procedure, including the rules on alternative dispute resolution, shall, insofar as they are not inconsistent with these rules, apply suppletorily to these rules.

D. REPEALING CLAUSE

Sec. 26. *Repeal of inconsistent provisions of the Rules of Court.* - The provisions of Section 5 (Order of trial) of Rule 30, Section 1 (Arraignment and plea; how made) of Rule 116, Sections 1 to 4 of Rule 118 (Pre-trial), Section 11 (Order of trial) of Rule 119, and Section 4 (Order in the examination of an individual witness) of Rule 132 of the Rules of Court, as well as the provisions of the Rules of Summary Procedure in Special Cases before the first level courts that took effect on August 1, 1983 are repealed. The other provisions of the Rules of Court are likewise repealed insofar as they are inconsistent with or detract from the spirit and intent of these Rules for Hearing and Adjudicating Disputes.

E. EFFECTIVITY

Sec. 27. *Effectivity.*—These rules shall take effect in the pilot courts designated for that purpose following its publication in two newspapers of general circulation.

For purposes of pilot-testing, family court and environmental law cases shall be excluded.

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RULES ON CIVIL PROCEDURE**

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