



# THE BAR TRIBUNE

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## IBP Honors New SC Administrator Perez

Integrated Bar of the Philippines National President Feliciano “Shane” M. Bautista led officers and various guests last October 9, 2008 in a testimonial dinner for newly-appointed Supreme Court Administrator Atty. Jose P. Perez at the IBP national office in Ortigas. The event was made more momentous by the presence of no less than Chief Justice Reynato S. Puno.

President Bautista noted that “Don Pepe,” as Atty. Perez was fondly called, struck fear in the hearts of judges when they are summoned to appear in his office. “But he is well-loved by employees and staff of the Supreme Court, having been at the forefront of programs that uplift and improve the lives of the rank and file. As he himself said, he can relate to Court employees because he is one of them,” Bautista added.

Chief Justice Puno made specific mention that it was his first time to visit the IBP national office. He commended the IBP for being a steady and steadfast partner in various legal advocacies. “The Integrated Bar has consistently partnered with the Supreme Court in the discussions that led to the promulgation of the rules on the writs of *habeas data* and *amparo*, it has been active in the campaign for human rights, and lately it has partnered with the Court to improve access to justice,” the Chief Justice said.

Atty. Perez meanwhile stressed the need for judicial reform in order for



members of both the Bench and the Bar to be effective agents of justice.

The affair was capped by touching and humorous testimonials and

anecdotes by Atty. Eduardo R. Robles and Atty. Mario V. Andres. Atty. Jose Amor M. Amorado, IBP Presidential Assistant for External Affairs, hosted the event. ■

# Supreme Court Voids Mandatory Drug Tests for Public Office Candidates, Criminally Accused

By Anna Katrina M. Martinez

The Supreme Court, in a unanimous decision, recently declared as unconstitutional the provisions of RA 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, requiring mandatory drug testing of candidates for public office and persons accused of crimes. However, the Court upheld the constitutionality of the said law insofar as random drug testing for secondary and tertiary school students and for officials and employees of public and private offices.

In a 23-page decision penned by Justice Presbitero J. Velasco, Jr., the Court *En Banc* resolved three consolidated petitions for certiorari and prohibition filed by the Social Justice Society (SJS), Atty. Manuel J. Laserna, Jr. and Senator Aquilino Q. Pimentel, Jr. assailing the constitutionality of section 36 of RA 9165 insofar as it compels candidates for public office, students of secondary and tertiary schools, officers and employees of public and private offices, and persons charged before the prosecutor's office with certain offenses to undergo random drug testing. Additionally, Sen. Pimentel questioned the validity of COMELEC Resolution No. 6486, alleging that the same created an additional qualification for candidates for senators in addition to those provided in the 1987 Constitution by requiring that the candidates be certified as drug-free.

The Court resolved to grant Sen. Pimentel's petition and declare sec. 36(g) of RA 9165 and COMELEC Resolution No. 6486 as unconstitutional, and to partially grant the petitions of SJS and Laserna by declaring sec. 36(c) and (d) of the *Comprehensive Dangerous Drugs Act of 2002* constitutional, but declaring its sec. 36(f) unconstitutional. The Court also enjoined all concerned agencies from implementing sec. 36(f) and (g) of the said law.



***“A random drug testing of students in secondary and tertiary schools “is not only acceptable but may even be necessary if the safety and interest of the student population, doubtless a legitimate concern of the government, are to be promoted and protected.”***

The Court stressed that the unconstitutionality of sec. 36(g) of RA 9165 “is rooted on its having infringed the constitutional provision defining the qualification or eligibility requirements for one aspiring to run for and serve as senator.” In declaring sec. 36(g) unconstitutional, the Court said that the same “unmistakably requires a candidate for senator to be certified illegal-drug clean, obviously as a pre-condition to the validity of a certificate of candidacy for senator or, with like effect, a condition *sine qua non* to be voted upon and, if proper, be proclaimed senator-elect,” adding that the assailed provision of the law and the COMELEC Resolution “add another layer to what the 1987 Constitution, at the minimum, requires for membership in the Senate.”

The Court also found no valid justification for mandatory drug testing for persons accused of crimes, as required by sec. 36(f) of the law, as a mandatory drug testing in the case of persons charged with a crime before the prosecutor's office “can never be random or suspicionless.”

On the other hand, the High Court held that sec. 36(c) and (d) of RA 9165

requiring mandatory drug testing of students and officials and employees of public and private offices are constitutional.

The Court, taking note of the proliferation of prohibited drugs in the country which threaten “the well-being of the people, particularly the youth and school children who usually end up as victims,” stated that until a more effective method is conceptualized and put in motion, a random drug testing of students in secondary and tertiary schools “is not only acceptable but may even be necessary if the safety and interest of the student population, doubtless a legitimate concern of the government, are to be promoted and protected.”

The Court also stated that as regards officers and employees of public and private offices, mandatory but random drug testing is justifiable. (GR No. 157870, *Social Justice Society v. Dangerous Drugs Board and Philippine Drug Enforcement Agency (PDEA)*, November 3, 2008)

**THE BAR TRIBUNE**

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**IBP Quezon, Makati City Celebrate Law Week**

IBP Quezon Province Chapter President Roberto Avio and Makati Chapter President Danilo Cortina recently conducted their respective chapter activities in observance of Law Week last September 15 to 19, 2008.

The Quezon Chapter held a Mass, a legal aid clinic on wheels, a legal forum and a jail visit at the Quezon Provincial Jail. It also honored newly-admitted lawyers and newly-appointed members of the judiciary and prosecution service in a testimonial dinner at the Queen Margarett Hotel in Lucena City.

Makati Chapter President Cortina reported that they coordinated with the office of Congresswoman Abigail S. Binay in conducting a legal aid clinic last August 30 and September 20, 2008 at the Barangay Halls of Guadalupe Nuevo and Pitogo, respectively.

**Davao del Norte Inaugurates Building**

The IBP Davao del Norte-Compostela Valley Chapter inaugurated last September 5, 2008 its chapter building with Chief Justice Reynatos S. Puno in attendance, Chapter President Daniel Campoamor reported.

IBP Governor for Eastern Mindanao Ramon Edison Batacan gave a brief message during the occasion in behalf of National President Feliciano M. Bautista.

**Lot Donated for Sorsogon Chapter Building**

Sorsogon Chapter President Josue F. Ernacio recently accepted a donation of a 400 square meter lot from Sorsogon Governor Sally A. Lee. The lot would be used as the site of the planned Sorsogon Chapter Building.


**International Day vs. Drug Abuse Observed**

President Christina Jugador of IBP Misamis Oriental reported that in line with the observance of the International Day Against Drug Abuse and Illicit

Trafficking (IDADAIT), her chapter gave all out support to the activities of the Region X office of the Philippine Drug Enforcement Agency (PDEA).

The Chapter participated in the motorcade and activities which served to bring attention to the nationwide campaign against illegal drugs.





# 12th NATIONAL CONVENTION OF LAWYERS

Bacolod Pavillon Hotel & Resort  
Reclamation Area, Bacolod City  
26 - 28 March 2009

## Upholding the Rule of Law: IBP's Continuing Challenge

18 MCLE Credit Units  
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<p><b>REGISTRATION FEES.</b></p> <p>On or before February 28, 2009 .....P 4,500.00</p> <p>March 1, 2009 to on-site .....5,000.00</p> <p>Life Member .....4,000.00</p>	<p><i>Host Region : Western Visayas    Host Chapter : Negros Occidental</i></p> <p><small>Contact for Details (National Office): The Convention Secretariat Integrated Bar of the Philippines Della Julia Vergara Avenue Cebuana Grand, Hong City E-mail: <a href="mailto:info@ibp.org.ph">info@ibp.org.ph</a> <a href="mailto:ibp12hrcd@ibp.org.ph">ibp12hrcd@ibp.org.ph</a> Tel. No.: 026-4897 or 431-9014</small></p> <p><small>Contact for Details (Negros Occidental Chapter): The Convention Secretariat Integrated Bar of the Philippines Negros Occidental Chapter IBP Building, Shoppers' Congress Gambao Street, Bacolod City Tel. No.: 0264-433-1011</small></p>
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## Mercury Drug Held Liable for Negligence in Giving Wrong Medicine to Judge

“Druggists must exercise the highest practicable degree of prudence and vigilance, and the most exact and reliable safeguards consistent with the reasonable conduct of the business, so that human life may not constantly be exposed to the danger flowing from the substitution of deadly poisons for harmless medicines.”

Thus held the Court in its recent decision finding Mercury Drug Corporation and one of its pharmacy assistants liable for damages for giving the wrong medicine to a customer who is also a Regional Trial Court (RTC) judge.

In a 17-page decision penned by Justice Ruben T. Reyes, the Court’s Third Division ruled in favor of the complaint for damages filed by Raul T. De Leon against Mercury Drug and pharmacy assistant Aurmela Ganzon for dispensing to De Leon ear drops instead of the prescribed eye drops. When De

Leon used the medicine, he felt “searing pain.” The Court thus affirmed with modification the decisions of the Court



of Appeals (CA) and the Parañaque City RTC, granting the petition of De Leon but reducing the amount of the moral and exemplary damages as awarded by the two lower courts from Php100,000.00 to

Php50,000.00 and from Php300,000.00 to Php25,000.00, respectively.

The Court ruled that druggists can not escape responsibility for giving a customer a drug different from the intended purchase, whether or not the drug mistakenly given was harmless, or the error was an accident or an innocent mistake. Mistakes in the pharmacy business simply can not be tolerated as they are of “the gravest kind and of the most disastrous effect,” stressed the Court.

The Court further held that “one holding himself out as competent to handle drugs, having rightful access to them, and relied upon by those dealing with him to exercise that high degree of caution and care called for by the peculiarly dangerous nature of the business, cannot be heard to say that his mistake by which he furnished a customer the most deadly of drugs for those comparatively harmless, is not in itself gross negligence.”/Jen T. Tuazon

## Paggamit ng Wikang Filipino sa mga Korte sa Bansa, Inihanda ng Korte Suprema

Naghahanda ang Korte Suprema tungo sa paggamit ng wikang Filipino ng mga hukuman sa bansa tuwing paglilitis. Ito ay isa na namang hakbang ng hudikatura upang mas lalong mapag-ibayo ang pagbibigay ng hustisya sa ating mga kababayan.

Isang *Seminar-Workshop sa Paggamit ng Filipino sa Hukuman* ang ginanap noong Oktubre 21 at 22, 2008 sa *hostel* ng *Bulacan State University* sa Malolos, lalawigan ng Bulacan. Ang mga dalubhasa sa batas na mga guro ng *Philippine Judicial Academy* o PHILJA ay magbabalangkas ng isang kurikulum upang magsanay ang mga hukom, mga piskal, mga abogado, at mga kawani ng korte sa paggamit ng wikang Filipino sa paglilitis.

Ang balangkas ay gagamitin sa pag-aaral at pagsasanay ng mga nasa hukuman sa bansa sa paggamit ng Filipino sa mga korte.

Pinag-uusapan sa *seminar-workshop* ang mga suliranin na maaaring kaharapin ng mga hukom, mga piskal, mga abogado at iba pang kawani ng mga korte sa paglilitis gamit ang wikang Filipino.

Naging daan rin ang nasabing *seminar-workshop* sa pagmungkahi ng mga solusyon sa mga suliraning maaari nilang kaharapin sa ng mga abogado paggamit ng sariling wika sa mga hukuman.



Ang *seminar-workshop* ay unang iminungkahi ni Mahistrado Jose de la Rama, Dekano ng Marcelo H. Del Pilar College of Law ng Bulacan State University./Annie Rose A. Laborte

# Courts Settle Small Claims Cases

In the photo, Pasig Metropolitan Trial Court Branch 72 Judge Joy Nerves Casihan-Dumlao studies the draft of the compromise agreement which resolved yesterday, November 3, 2008, the small claims case filed by Lorna L. Morales (left) against Diana Concepcion, as court stenographer Mary Ann R. Jacob (right) encodes the agreement.

The case was filed by Morales on October 15, 2008 after Concepcion failed to settle her Php86,000.00 obligation on July 15, 2008, as was agreed upon in their barangay conciliation proceedings held at

Pinagbuhatan, Pasig City.

After almost an hour of back and forth negotiations facilitated by the patient Judge Dumlao, the parties finally agreed that Concepcion will pay the amount in monthly amortizations for a period of two years starting on December 15, 2008.

Judge Dumlao congratulated the parties for successfully settling their differences and informed them that the decision would be made available to them a few minutes after the adjournment




of the proceedings. / **Joachim Florencio Q, Corsiga, Photo By Francis S. Gutierrez**



Iloilo Metropolitan Trial Court Branch 4 Judge Marie Yvette D. Go (3rd from left) settles the first small claims case outside Metro Manila between claimant Clarita S. Gañaca (2nd from right) and defendants Gina Mae Zaragoza and Helen Kirozin (1st and 2nd from left), using the recently promulgated Rule of Procedure for Small Claims Cases. Also in picture is Assistant Court Administrator Thelma C. Bahia (right). / **Photo by Hyacynth Anne C. Rocillo, caption by Abigail T. Sze**


(SC Reports articles are reprinted from the Supreme Court's Website, [www.supremecourt.gov.ph](http://www.supremecourt.gov.ph))



**SMALL CLAIMS CASES**

## SMALL CLAIMS CASES FLOWCHART

Inexpensive. Informal. Simple. Increased access to justice for all.



**A.M. No. 08-8-7-SC**  
*Rule of Procedure for Small Claims Cases*


Small Claims Cases are civil claims which are exclusively for the payment or reimbursement of a sum of money not exceeding P100,000.

In Small Claims Cases, ordinary litigants can prosecute and defend a small claims action without the participation of lawyers.


For so long a time, we have sat on our hands in the face of the urgent need to widen our poor people's access to justice. Social justice is a buzz word in other countries, but inaction in our jurisdiction has made it a buzz word. With our Justice on Wheels Program and this new Rule of Procedure for Small Claims Cases, we have shortened the distance between our dream of justice for the poor and the real reality on ground. Chief Justice Renato S. Puno

Judges who employ JCR in Small Claims Cases exert efforts to help the parties arrive at an amicable settlement through mediation, conciliation, early neutral evaluation, or any other mode of JCR.

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## 2008 Awarding Ceremonies for Judicial Excellence

The Search for Outstanding Judges and Clerks of Court  
Supreme Court En Banc Session Hall, September 17, 2008

The Integrated Bar of the Philippines receives a Plaque of Appreciation from the Supreme Court and the Society for Judicial Excellence for its generous commitment to the 2008 Search for Outstanding Judges and Clerks of Court, for its active and earnest participation in carrying out the Society's mission of observing the highest standards of ethics, for ensuring professional competence and maintaining independence in the administration of justice, and for its commendable traits of benevolence and commitment to social reform and regeneration.



In behalf of the IBP, Greater Manila Governor Marcial M. Magsino, with the Board of Governors and National Officers receive the Plaque of Appreciation from the Supreme Court and the Society for Judicial Excellence.

IBP Board of Governors and National Officers present during the awarding, (from left), Governor for Greater Manila Marcial M. Magsino, General Counsel and Chief of Staff Rodolfo G. Urbiztondo, National Director for Bar Discipline Alicia A. Riso-Vidal, Governor for Eastern Visayas Evergisto S. Escalon, Governor for Western Mindanao Carlos L. Valdez, Jr. and Presidential Assistant for External Affairs Jose Amor M. Amorado.

## 20th Board Meeting of the IBP 18th Board of Governors

IBP Pangasinan Chapter Building, Bonuan, Dagupan City, September 20, 2008



The Board of Governors and National Officers Meeting at the IBP Pangasinan Chapter Building. Governor for Western Mindanao Carlos L. Valdez, Jr. leads the prayer before the start of the board meeting.



## The 18th House of Delegates Convention Organizing Committee



Meeting at Legenda Hotel, Subic Bay Freeport Zone, Zambales on April 30, 2008.



18th House of Delegates Organizing Committee Meeting at Seafood by the Bay, Subic Bay Freeport Zone, Zambales on July 4, 2008.



18th House of Delegates Convention Organizing Committee Meeting at IBP Pangasinan Chapter Building, Bonuan, Dagupan City on September 20, 2008. (From left) Atty. Ferdinand Y. Micalat (Immediate Past President, Tarlac Chapter), Governor for Central Luzon Ernesto A. Gonzales, Jr., National Executive Director Jaime M. Vibar, Tarlac Chapter President Oscar V. Bermudez, Aurora G. Geronimo, Atty. Olivia V. Jacoba (Immediate Past President, Nueva Ecija Chapter), Marissa T. Almocera, National President Feliciano M. Bautista, Zambales Chapter President Michael G. Fabunan, and Pangasinan Chapter President Joselino A. Viray.

**Greater Manila Regional Convention**

Manila Hotel, August 14-16, 2008

**Theme: "IBP: Advocates of Good Governance"**



Greater Manila Region (GMR) Officers led by Governor Marcial M. Magsino hosted the IBP Board of Governors and National Officers at a Welcome Luncheon at Pantalan Restaurant, Manila Bay on August 13, 2008 - GMR Convention.



Call to Order by Governor for Greater Manila Region Marcial M. Magsino.



National President Feliciano M. Bautista delivers his inspirational message.



Guest of Honor and Keynote Speaker Chief Justice Reynato S. Puno delivers his message.



**LAWASIA Annual Convention**

Kuala Lumpur, Malaysia, October 29 - November 1, 2008

**Theme: "Challenging Asia"**

Incumbent and former IBP officers and private legal practitioners attend the prestigious legal convention at the Kuala Lumpur International Convention Center.



## Chief Justice Reynato S. Puno Visits IBP National Office

October 9, 2008  
IBP Building, 15 J. Vargas Ave., Ortigas Center, Pasig City



Chief Justice Reynato S. Puno conferring with National President Feliciano M. Bautista, Executive Vice President & Governor for Southern Luzon Rogelio A. Vinluan and National Director for Bar Discipline Alicia A. Risos-Vidal.



Chief Justice Reynato S. Puno and Court Administrator Jose P. Perez with the IBP Board of Governors and National Officers.



Chief Justice Puno, Court Administrator Perez, National President Bautista and Governor for Eastern Visayas Evergisto S. Escalon having an animated discussion.