

BM No. 2012

**PROPOSED RULE ON MANDATORY LEGAL AID SERVICE
FOR PRACTICING LAWYERS**

RESOLUTION

Acting on the Memorandum dated January 27, 2009 of Justice Renato C. Corona re: Comment of the Integrated Bar of the Philippines on our Suggested Revisions to the Proposed Rule of Mandatory Legal Aid Service for Practicing Lawyers, the Court Resolved to **APPROVE** the same.

This Resolution shall take effect on July 1, 2009 following publication of the said Rule and its implementing regulations in at least two (2) newspapers of general circulation.

February 10, 2009.

REYNATO S. PUNO

Chief Justice

LEONARDO A. QUISUMBING

Associate Justice

CONSUELO YNARES-SANTIAGO

Associate Justice

ANTONIO T. CARPIO

Associate Justice

MA. ALICIA M. AUSTRIA-MARTINEZ

Associate Justice

RENATO C. CORONA
Associate Justice

CONCHITA CARPIO MORALES
Associate Justice

ADOLFO S. AZCUNA
Associate Justice

DANTE O. TINGA
Associate Justice

MINITA V. CHICO-NAZARIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

ANTONIO EDUARDO B. NACHURA
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

RULE ON MANDATORY LEGAL AID SERVICE

SECTION 1. *Title.* - This Rule shall be known as “The Rule on Mandatory Legal Aid Service.”

SECTION 2. *Purpose.* – This Rule seeks to enhance the duty of lawyers to society as agents of social change and to the courts as officers thereof by helping improve access to justice by the less privileged members of society and expedite the resolution of cases involving them. Mandatory free legal service by members of the bar and their active support thereof will aid the efficient and effective administration of justice especially in cases involving indigent and pauper litigants.

SECTION 3. *Scope.* – This Rule shall govern the mandatory requirement for practicing lawyers to render free legal aid services in all cases (whether, civil, criminal or administrative) involving indigent and pauper litigants where the assistance of a lawyer is needed. It shall also govern the duty of other members of the legal profession to support the legal aid program of the Integrated Bar of the Philippines.

SECTION 4. *Definition of Terms.* – For purposes of this Rule:

- (a) *Practicing lawyers* are members of the Philippine Bar who appear for and in behalf of parties in courts of law and quasi-judicial agencies, including but not limited to the National Labor Relations Commission, National Conciliation and Mediation Board, Department of Labor and Employment Regional Offices, Department of Agrarian Reform Adjudication Board and National Commission for

Indigenous Peoples. The term “practicing lawyers” shall exclude:

- (i) Government employees and incumbent elective officials not allowed by law to practice;
 - (ii) Lawyers who by law are not allowed to appear in court;
 - (iii) Supervising lawyers of students enrolled in law student practice in duly accredited legal clinics of law schools and lawyers of non-governmental organizations (NGOs) and peoples’ organizations (POs) like the Free Legal Assistance Group who by the nature of their work already render free legal aid to indigent and pauper litigants and
 - (iv) Lawyers not covered under subparagraphs (i) to (iii) including those who are employed in the private sector but do not appear for and in behalf of parties in courts of law and quasi-judicial agencies.
- (b) *Indigent and pauper litigants* are those defined under Rule 141, Section 19 of the Rules of Court and *Algura v. The Local Government Unit of the City of Naga* (G.R. No. 150135, 30 October 2006, 506 SCRA 81);
- (c) *Legal aid cases* are those actions, disputes, and controversies that are criminal, civil and administrative in nature in whatever stage wherein indigent and pauper litigants need legal representation;
- (d) *Free legal aid services* refer to appearance in court or quasi-judicial body for and in behalf of an indigent or pauper litigant and the preparation of pleadings or motions. It shall also cover assistance by a practicing lawyer to indigent or

poor litigants in court-annexed mediation and in other modes of alternative dispute resolution (ADR). Services rendered when a practicing lawyer is appointed counsel *de officio* shall also be considered as free legal aid services and credited as compliance under this Rule;

- (e) *Integrated Bar of the Philippines* (IBP) is the official national organization of lawyers in the country;
- (f) *National Committee on Legal Aid* (NCLA) is the committee of the IBP which is specifically tasked with handling legal aid cases;
- (g) *Committee on Bar Discipline* (CBD) is the committee of the IBP which is specifically tasked with disciplining members of the Bar;
- (h) *IBP Chapters* are those chapters of the Integrated Bar of the Philippines located in the different geographical areas of the country as defined in Rule 139-A and
- (i) *Clerk of Court* is the Clerk of Court of the court where the practicing lawyer rendered free legal aid services. In the case of quasi-judicial bodies, it refers to an officer holding an equivalent or similar position.

The term shall also include an officer holding a similar position in agencies exercising quasi-judicial functions, or a responsible officer of an accredited PO or NGO, or an accredited mediator who conducted the court-annexed mediation proceeding.

SECTION 5. *Requirements.* –

- (a) Every practicing lawyer is required to render a minimum of sixty (60) hours of free legal aid services to indigent litigants

in a year. Said 60 hours shall be spread within a period of twelve (12) months, with a minimum of five (5) hours of free legal aid services each month. However, where it is necessary for the practicing lawyer to render legal aid service for more than five (5) hours in one month, the excess hours may be credited to the said lawyer for the succeeding periods.

For this purpose, a practicing lawyer shall coordinate with the Clerk of Court for cases where he may render free legal aid service. He may also coordinate with the IBP Legal Aid Chairperson of the IBP Chapter to inquire about cases where he may render free legal aid service. In this connection, the IBP Legal Aid Chairperson of the IBP Chapter shall regularly and actively coordinate with the Clerk of Court.

The practicing lawyer shall report compliance with the requirement within ten (10) days of the last month of each quarter of the year.

- (b) A practicing lawyer shall be required to secure and obtain a certificate from the Clerk of Court attesting to the number of hours spent rendering free legal aid services in a case. The certificate shall contain the following information:
 - (i) The case or cases where the legal aid service was rendered, the party or parties in the said case(s) for whom the service was rendered, the docket number of the said case(s) and the date(s) the service was rendered.

- (ii) The number of hours actually spent attending a hearing or conducting trial on a particular case in the court or quasi-judicial body.
- (iii) The number of hours actually spent attending mediation, conciliation or any other mode of ADR on a particular case.
- (iv) A motion (except a motion for extension of time to file a pleading or for postponement of hearing or conference) or pleading filed on a particular case shall be considered as one (1) hour of service.

The Clerk of Court shall issue the certificate in triplicate, one (1) copy to be retained by the practicing lawyer, one (1) copy to be retained by the Clerk of Court and one (1) copy to be attached to the lawyer's compliance report.

- (c) Said compliance report shall be submitted to the Legal Aid Chairperson of the IBP Chapter within the court's jurisdiction. The Legal Aid Chairperson shall then be tasked with immediately verifying the contents of the certificate with the issuing Clerk of Court by comparing the copy of the certificate attached to the compliance report with the copy retained by the Clerk of Court.
- (d) The IBP Chapter shall, after verification, issue a compliance certificate to the concerned lawyer. The IBP Chapter shall also submit the compliance reports to the IBP's NCLA for recording and documentation. The submission shall be made within forty-five (45) days after the mandatory submission of compliance reports by the practicing lawyers.

- (e) Practicing lawyers shall indicate in all pleadings filed before the courts or quasi-judicial bodies the number and date of issue of their certificate of compliance for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.
- (f) Before the end of a particular year, lawyers covered by the category under Section 4(a)(i) and (ii), shall fill up a form prepared by the NCLA which states that, during that year, they are employed with the government or incumbent elective officials not allowed by law to practice or lawyers who by law are not allowed to appear in court. The form shall be sworn to and submitted to the IBP Chapter or IBP National Office together with the payment of an annual contribution of Two Thousand Pesos (₱2,000). Said contribution shall accrue to a special fund of the IBP for the support of its legal aid program.
- (g) Before the end of a particular year, lawyers covered by the category under Section 4(a)(iii) shall secure a certification from the director of the legal clinic or of the concerned NGO or PO to the effect that, during that year, they have served as supervising lawyers in a legal clinic or actively participated in the NGO's or PO's free legal aid activities. The certification shall be submitted to the IBP Chapter or IBP National Office.
- (h) Before the end of a particular year, lawyers covered by the category under Section 4(a)(iv) shall fill up a form prepared by the NCLA which states that, during that year, they are neither practicing lawyers nor covered by Section (4)(a)(i) to

- (iii). The form shall be sworn to and submitted to the IBP Chapter or IBP National Office together with the payment of an annual contribution of Four Thousand Pesos (₱4,000) by way of support for the efforts of practicing lawyers who render mandatory free legal aid services. Said contribution shall accrue to a special fund of the IBP for the support of its legal aid program.
- (i) Failure to pay the annual contribution shall subject the lawyer to a penalty of Two Thousand Pesos (₱2,000) for that year which amount shall also accrue to the special fund for the legal aid program of the IBP.

SECTION 6. *NCLA.* –

- (a) The NCLA shall coordinate with the various legal aid committees of the IBP local chapters for the proper handling and accounting of legal aid cases which practicing lawyers can represent.
- (b) The NCLA shall monitor the activities of the Chapter of the Legal Aid Office with respect to the coordination with Clerks of Court on legal aid cases and the collation of certificates submitted by practicing lawyers.
- (c) The NCLA shall act as the national repository of records in compliance with this Rule.
- (d) The NCLA shall prepare the following forms: certificate to be issued by the Clerk of Court and forms mentioned in Section 5(e) and (g).
- (e) The NCLA shall hold in trust, manage and utilize the contributions and penalties that will be paid by lawyers pursuant to this Rule to effectively carry out the provisions

of this Rule. For this purpose, it shall annually submit an accounting to the IBP Board of Governors. The accounting shall be included by the IBP in its report to the Supreme Court in connection with its request for the release of the subsidy for its legal aid program.

SECTION 7. *Penalties.* –

- (a) At the end of every calendar year, any practicing lawyer who fails to meet the minimum prescribed 60 hours of legal aid service each year shall be required by the IBP, through the NCLA, to explain why he was unable to render the minimum prescribed number of hours. If no explanation has been given or if the NCLA finds the explanation unsatisfactory, the NCLA shall make a report and recommendation to the IBP Board of Governors that the erring lawyer be declared a member of the IBP who is not in good standing. Upon approval of the NCLA's recommendation, the IBP Board of Governors shall declare the erring lawyer as a member not in good standing. Notice thereof shall be furnished the erring lawyer and the IBP Chapter which submitted the lawyer's compliance report or the IBP Chapter where the lawyer is registered, in case he did not submit a compliance report. The notice to the lawyer shall include a directive to pay Four Thousand Pesos (₱4,000) penalty which shall accrue to the special fund for the legal aid program of the IBP.
- (b) The "not in good standing" declaration shall be effective for a period of three (3) months from the receipt of the erring lawyer of the notice from the IBP Board of Governors. During the said period, the lawyer cannot appear in court or any quasi-judicial body as

counsel. Provided, however, that the “not in good standing” status shall subsist even after the lapse of the three-month period until and unless the penalty shall have been paid.

- (c) Any lawyer who fails to comply with his duties under this Rule for at least three (3) consecutive years shall be the subject of disciplinary proceedings to be instituted *motu proprio* by the CBD. The said proceedings shall afford the erring lawyer due process in accordance with the rules of the CBD and Rule 139-B of the Rules of Court. If found administratively liable, the penalty of suspension in the practice of law for one (1) year shall be imposed upon him.
- (d) Any lawyer who falsifies a certificate or any form required to be submitted under this Rule or any contents thereof shall be administratively charged with falsification and dishonesty and shall be subject to disciplinary action by the CBD. This is without prejudice to the filing of criminal charges against the lawyer.
- (e) The falsification of a certificate or any contents thereof by any Clerk of Court or by any Chairperson of the Legal Aid Committee of the IBP local chapter where the case is pending or by the Director of a legal clinic or responsible officer of an NGO or PO shall be a ground for an administrative case against the said Clerk of Court or Chairperson. This is without prejudice to the filing of the criminal and administrative charges against the malfeasant.

SECTION 8. *Credit for Mandatory Continuing Legal Education (MCLE).* –

A lawyer who renders mandatory legal aid service for the required number of hours in a year for the three year-period covered by a compliance period under the Rules on MCLE shall be credited the following: two (2) credit units for legal ethics, two (2) credit units for trial and pretrial skills, two (2) credit units for

alternative dispute resolution, four (4) credit units for legal writing and oral advocacy, four (4) credit units for substantive and procedural laws and jurisprudence and six (6) credit units for such subjects as may be prescribed by the MCLE Committee under Section 2(g), Rule 2 of the Rules on MCLE.

A lawyer who renders mandatory legal aid service for the required number of hours in a year for at least two consecutive years within the three year-period covered by a compliance period under the Rules on MCLE shall be credited the following: one (1) credit unit for legal ethics, one (1) credit unit for trial and pretrial skills, one (1) credit unit for alternative dispute resolution, two (2) credit units for legal writing and oral advocacy, two (2) credit units for substantive and procedural laws and jurisprudence and three (3) credit units for such subjects as may be prescribed by the MCLE Committee under Section 2(g), Rule 2 of the Rules on MCLE.

SECTION 9. *Implementing Rules.* – The IBP, through the NCLA, is hereby given authority to recommend implementing regulations in determining who are “practicing lawyers,” what constitute “legal aid cases” and what administrative procedures and financial safeguards which may be necessary and proper in the implementation of this rule may be prescribed. It shall coordinate with the various legal chapters in the crafting of the proposed implementing regulations and, upon approval by the IBP Board of Governors, the said implementing regulations shall be transmitted to the Supreme Court for final approval.

SECTION 10. *Effectivity.* – This Rule and its implementing rules shall take effect on July 1, 2009 after they have been published in two (2) newspapers of general circulation.