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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.M. No. 08-11-7-SC. August 28, 2009]

RE: REQUEST OF NATIONAL COMMITTEE ON LEGAL AID[1] TO EXEMPT LEGAL AID CLIENTS FROM PAYING FILING, DOCKET AND OTHER FEES.

SYLLABUS

1. REMEDIAL LAW; LEGAL FEES; RULE ON THE EXEMPTION FROM THE PAYMENT OF LEGAL FEES OF THE LEGAL AID CLIENTS, APPROVED.— The Rule on the Exemption From the Payment of Legal Fees of the Clients of the National Committee on Legal Aid (NCLA) and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines (IBP) (which shall be assigned the docket number A.M. No. 08-11-7-SC [IRR] provided in this resolution is hereby *APPROVED*.

2. ID.; ID.; ID.; IMPROVED "MEANS AND MERIT TESTS" INCORPORATED IN THE RULE AS REASONABLE DETERMINANTS OF ELIGIBILITY FOR COVERAGE UNDER THE LEGAL AID PROGRAM.— The "means and merit tests" appear to be reasonable determinants of eligibility for coverage under the legal aid program of the IBP. Nonetheless, they may be improved to ensure that any exemption from the payment of legal fees that may be granted to clients of the NCLA and the legal aid offices of the various IBP chapters

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[1] Erroneously referred to as the "National Legal Aid Office" in the original caption of this administrative matter.

Supreme Court E-Library

will really further the right of access to justice by the poor. This will guarantee that the exemption will neither be abused nor trivialized.

3. ID.; ID.; ID.; CONSTITUTIONAL GUARANTEE OF FREE ACCESS TO THE COURTS, ADVANCED.— The Constitution guarantees the rights of the poor to free access to the courts and to adequate legal assistance. The legal aid service rendered by the NCLA and legal aid offices of IBP chapters nationwide addresses only the right to adequate legal assistance. Recipients of the service of the NCLA and legal aid offices of IBP chapters may enjoy free access to courts by exempting them from the payment of fees assessed in connection with the filing of a complaint or action in court. With these twin initiatives, the guarantee of Section 11, Article III of Constitution is advanced and access to justice is increased by bridging a significant gap and removing a major roadblock.

4. REMEDIAL LAW; RIGHT OF ACCESS TO JUSTICE; IMPLEMENTING RULES.—The above rule, in conjunction with Section 21, Rule 3 and Section 19, Rule 141 of the Rules of Court, the Rule on Mandatory Legal Aid Service and the Rule of Procedure for Small Claims Cases, shall form a solid base of rules upon which the right of access to courts by the poor shall be implemented. With these rules, we equip the poor with the tools to effectively, efficiently and easily enforce their rights in the judicial system.

R E S O L U T I O N

CORONA, *J.*:

On September 23, 2008 the Misamis Oriental Chapter of the Integrated Bar of the Philippines (IBP) promulgated Resolution No. 24, series of 2008.[2] The resolution requested the IBP's National Committee on Legal Aid[3] (NCLA) to ask for the exemption from the payment of filing, docket and other fees of clients of the legal aid offices in the various IBP chapters. Resolution No. 24, series of 2008 provided:

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[2] *Rollo*, pp. 1-2.

[3] Referred to in the resolution as the "National Legal Aid Office."

Supreme Court E-Library

Re: Request of National Committee on Legal Aid to Exempt Legal Aid Clients from Paying Filing, Docket and other Fees

RESOLUTION NO. 24, SERIES OF 2008

RESOLUTION OF THE IBP–MISAMIS ORIENTAL CHAPTER FOR THE IBP NATIONAL LEGAL AID OFFICE TO REQUEST THE COURTS AND OTHER QUASI-JUDICIAL BODIES, THE PHILIPPINE MEDIATION CENTER AND PROSECUTOR'S OFFICES TO EXEMPT LEGAL AID CLIENTS FROM PAYING FILING, DOCKET AND OTHER FEES INCIDENTAL TO THE FILING AND LITIGATION OF ACTIONS, AS ORIGINAL PROCEEDINGS OR ON APPEAL.

WHEREAS, Section 1, Article I of the Guidelines Governing the Establishment and Operation of Legal Aid Offices in All Chapters of the Integrated Bar of the Philippines (otherwise known as ["]Guideline[s] on Legal Aid["]) provides: *Legal aid is not a matter of charity. It is a means for the correction of social imbalances that may often lead to injustice, for which reason, it is a public responsibility of the Bar. The spirit of public service should therefore unde[r]ly all legal aid offices. The same should be so administered as to give maximum possible assistance to indigent and deserving members of the community in all cases, matters and situations in which legal aid may be necessary to forestall injustice.*

WHEREAS, Section 2 of the same provides: *In order to attain the objectives of legal aid, legal aid office should be as close as possible to those who are in need thereof – the masses. Hence, every chapter of the IBP must establish and operate an adequate legal aid office.*

WHEREAS, the Legal Aid Office of the IBP–Misamis Oriental Chapter has long been operational, providing free legal services to numerous indigent clients, through the chapter's members who render volunteer services in the spirit of public service;

WHEREAS, the courts, quasi-judicial bodies, the various mediation centers and prosecutor's offices are collecting fees, be they filing, docket, motion, mediation or other fees in cases, be they original proceedings or on appeal;

WHEREAS, IBP Legal Aid clients are qualified under the same indigency and merit tests used by the Public Attorney's Office (PAO), and would have qualified for PAO assistance, but for reasons other than indigency, are disqualified from availing of the services of the PAO, like the existence of a conflict of interests or conflicting defenses, and other similar causes;

Supreme Court E-Library

WHEREAS, PAO clients are automatically exempt from the payment of docket and other fees for cases, be they original proceedings or on appeal, by virtue of the provisions of Section 16–D of R.A. 9406 (PAO Law), without the need for the filing of any petition or motion to declare them as pauper litigants;

WHEREAS, there is no similar provision in any substantive law or procedural law giving IBP Legal Aid clients the same benefits or privileges enjoyed by PAO clients with respect to the payment of docket and other fees before the courts, quasi-judicial bodies and prosecutor's offices;

WHEREAS, the collection of docket and other fees from the IBP Legal Aid clients poses an additional strain to their next to non-existent finances;

WHEREAS, the quarterly allowance given by the National Legal Aid Office to the IBP Misamis Oriental Chapter is insufficient to even cover the incidental expenses of volunteer legal aid lawyers, much less answer for the payment of docket and other fees collected by the courts, quasi-judicial bodies and prosecutor's offices and mediation fees collected by the Philippine Mediation Center;

NOW THEREFORE, on motion of the Board of Officers of the IBP–Misamis Oriental Chapter, be it resolved as it is hereby resolved, to move the IBP National Legal Aid Office to make the necessary requests or representations with the Supreme Court, the Philippine Mediation Center, the Department of Justice and the National Prosecution Service and other quasi-judicial agencies to effect the grant of a like exemption from the payment of filing, docket and other fees to the IBP Legal Aid clients as that enjoyed by PAO clients, towards the end that IBP Legal Aid clients be automatically exempted from the filing of the abovementioned fees;

RESOLVED FURTHER, that copies of this Resolution be furnished to Supreme Court Chief Justice Honorable Reynato S. Puno, IBP National President Feliciano M. Bautista, the IBP Board of Governors, Secretary of Justice Hon. Raul M. Gonzalez, the National Supervisor of the Philippine Mediation Center, the National Labor Relations Commission, the Civil Service Commission and other quasi-judicial bodies and their local offices;

RESOLVED FINALLY to move the IBP Board of Governors and National Officers to make the necessary representations with the National Legislature and its members to effect the filing of a bill

Supreme Court E-Library

before the House of Representatives and the Senate granting exemption to IBP Legal Aid clients from the payment of docket, filing and or other fees in cases before the courts, quasi-judicial agencies and prosecutor's offices and the mediation centers.

Done this 23rd day of September 2008, Cagayan De Oro City.

Unanimously approved upon motion severally seconded.[4]

The Court noted Resolution No. 24, series of 2008 and required the IBP, through the NCLA, to comment thereon.[5]

In a comment dated December 18, 2008,[6] the IBP, through the NCLA, made the following comments:

(a) Under Section 16-D of RA[7] 9406, clients of the Public Attorneys' Office (PAO) are exempt from the payment of docket and other fees incidental to the institution of action in court and other quasi-judicial bodies. On the other hand, clients of legal aid offices in the various IBP chapters do not enjoy the same exemption. IBP's indigent clients are advised to litigate as pauper litigants under Section 21, Rule 3 of the Rules of Court;

(b) They are further advised to submit documentary evidence to prove compliance with the requirements under Section 21, Rule 3 of the Rules of Court, *i.e.*, certifications from the *barangay* and the Department of Social Welfare and Development. However, not only does the process involve some expense which indigent clients could ill-afford, clients also lack knowledge on how to go about the tedious process of obtaining these documents;

(c) Although the IBP is given an annual legal aid subsidy, the amount it receives from the government is barely enough to cover various operating expenses;[8]

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[4] *Supra* note 2.

[5] Per resolution dated November 18, 2008.

[6] *Rollo*, pp. 8-12.

[7] Republic Act.

[8] These include (i) honoraria (subject to withholding tax) of legal aid lawyers

Supreme Court E-Library

(d) While each IBP local chapter is given a quarterly allocation (from the legal aid subsidy),[9] said allocation covers neither the incidental expenses defrayed by legal aid lawyers in handling legal aid cases nor the payment of docket and other fees collected by the courts, quasi-judicial bodies and the prosecutor's office, as well as mediation fees and

(e) Considering the aforementioned factors, a directive may be issued by the Supreme Court granting IBP's indigent clients an exemption from the payment of docket and other fees similar to that given to PAO clients under Section 16-D of RA 9406. In this connection, the Supreme Court previously issued a circular exempting IBP clients from the payment of transcript of stenographic notes.[10]

At the outset, we laud the Misamis Oriental Chapter of the IBP for its effort to help improve the administration of justice, particularly, the access to justice by the poor. Its Resolution No. 24, series of 2008 in fact echoes one of the noteworthy recommendations during the *Forum on Increasing Access to Justice* spearheaded by the Court last year. In promulgating Resolution No. 24, the Misamis Oriental Chapter of the IBP has effectively performed its duty to "participate in the development of the legal system by initiating or supporting efforts in law reform and in the administration of justice."[11]

We now move on to determine the merits of the request.

ACCESS TO JUSTICE:
MAKING AN IDEAL A REALITY

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for cost; (ii) up to 70% of bills for operational expenses (including office rental, light/electricity, water and telephone bills); (iii) actual expenses for postage, telegram, supplies, repairs and maintenance of office typewriter, computer and other equipment and office supplies and (iv) transportation of legal aid clerks and lawyers (which cover actual fare only and does not include gasoline expense).

[9] The allocation is in varying amounts duly approved by the IBP Board of Governors.

[10] *Supra* note 6.

[11] *See* Canon 4, Code of Professional Responsibility.

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Access to justice by all, especially by the poor, is not simply an ideal in our society. Its existence is essential in a democracy and in the rule of law. As such, it is guaranteed by no less than the fundamental law:

> Sec. 11. **Free access to the courts** and quasi-judicial bodies **and adequate legal assistance shall not be denied to any person by reason of poverty**.[12] (emphasis supplied)

The Court recognizes the right of access to justice as the most important pillar of legal empowerment of the marginalized sectors of our society.[13] Among others, it has exercised its power to "promulgate rules concerning the protection and enforcement of constitutional rights"[14] to open the doors of justice to the underprivileged and to allow them to step inside the courts to be heard of their plaints. In particular, indigent litigants are permitted under Section 21, Rule 3[15] and

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[12] Section 11, Article III, Constitution.

[13] Chief Justice Reynato S. Puno, *Recognizing the Poor*. The speech was delivered on February 27, 2009 at the Malcolm Theater of the U.P. College of Law for the Alphan Lecture Series entitled *Emancipation From Poverty Through Legal Empowerment* sponsored by the Alpha Phi Beta Fraternity of the College of Law of the University of the Philippines. The Chief Justice enumerated four pillars of legal empowerment of the poor, namely, acquisition of property rights, business rights, labor rights and access to justice.

[14] Section 5(5), Article VIII, Constitution.

[15] SECTION 21. *Indigent party*. – A party may be authorized to litigate his action, claim or defense as an indigent if the court, upon an *ex parte* application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

Any adverse party may contest the grant of such authority at any time before judgment is rendered by the trial court. If the court should determine after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall

Supreme Court E-Library

Section 19, Rule 14[16] of the Rules of Court to bring suits *in forma pauperis*.

The IBP, pursuant to its general objectives to "improve the administration of justice and enable the Bar to discharge its public responsibility more effectively,"[17] assists the Court in providing the poor access to justice. In particular, it renders free legal aid under the supervision of the NCLA.

A NEW RULE, A NEW TOOL FOR ACCESS TO JUSTICE

Under the IBP's Guidelines Governing the Establishment and Operation of Legal Aid Offices in All Chapters of the IBP (Guidelines on Legal Aid), the combined "means and merit tests" shall be used to determine the eligibility of an applicant for legal aid:

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be assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue for the payment thereof, without prejudice to such other sanctions as the court may impose.

[16] SECTION 19. *Indigent-litigants exempt from payment of legal fees.* – Indigent litigant (a) whose gross income and that of their immediate family do not exceed an amount double the monthly minimum wage of an employee and (b) who do not own real property with a fair market value as stated in the current tax declaration of more than Three Hundred Thousand (₱300,000.00) Pesos shall be exempt from the payment of legal fees.

The legal fees shall be a lien on any judgment rendered in the case favorable to the indigent unless the court otherwise provides.

To be entitled to the exemption herein provided, the litigant shall execute an affidavit that he and his immediate family do not earn a gross income abovementioned, nor own any real property with the fair value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the litigant's affidavit. The current tax declaration, if any, shall be attached to the litigant's affidavit.

Any falsity in the affidavit of litigant or disinterested person shall be sufficient cause to dismiss the complaint or action or to strike out the pleading of that party, without prejudice to whatever criminal liability may have been incurred.

[17] Section 2, Article I, By-Laws of the IBP.

Supreme Court E-Library

ARTICLE VIII
TESTS

SEC. 19. *Combined tests*. – The Chapter Legal Aid Committee or the [NCLA], as the case may be, shall pass upon the request for legal aid by the combined application of the means test and merit test, and the consideration of other factors adverted to in the following sections.

SEC. 20. *Means test*. – The means test aims at determining whether the applicant has no visible means of support or his income is otherwise insufficient to provide the financial resources necessary to engage competent private counsel owing to the demands for subsistence of his family, considering the number of his dependents and the conditions prevailing in the locality.

The means test shall not be applicable to applicants who fall under the Developmental Legal Aid Program such as Overseas Filipino Workers, fishermen, farmers, women and children and other disadvantaged groups.

SEC. 21. *Merit test*. – The merit test seeks to ascertain whether or not the applicant's cause of action or his defense is valid and chances of establishing the same appear reasonable.

SEC. 22. *Other factors*. – The effect of the Legal Aid Service or of the failure to render the same upon the Rule of Law, the proper administration of justice, the public interest involved in given cases and the practice of law in the locality shall likewise be considered.

SEC. 23. *Private practice*. – Care shall be taken that the Legal aid is not availed of to the detriment of the private practice of law, or taken advantage of by anyone for personal ends.

SEC. 24. *Denial*. – Legal aid may be denied to an applicant already receiving adequate assistance from any source other than the Integrated Bar.

The "means and merit tests" appear to be reasonable determinants of eligibility for coverage under the legal aid program of the IBP. Nonetheless, they may be improved to ensure that any exemption from the payment of legal fees that may be granted to clients of the NCLA and the legal aid offices of the various IBP chapters will really further the right of access to justice by the poor. This will guarantee that the exemption will

Supreme Court E-Library

neither be abused nor trivialized. Towards this end, the following shall be observed by the NCLA and the legal aid offices in IBP chapters nationwide in accepting clients and handling cases for the said clients:

A.M. No. 08-11-7-SC (IRR): Re: Rule on the Exemption From the Payment of Legal Fees of the Clients of the National Committee on Legal Aid and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines

Rule on the Exemption From the Payment of Legal Fees of the Clients of the National Committee on Legal Aid (NCLA) and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines (IBP)

ARTICLE I
Purpose

Section 1. *Purpose*. – This Rule is issued for the purpose of enforcing the right of free access to courts by the poor guaranteed under Section 11, Article III of the Constitution. It is intended to increase the access to justice by the poor by exempting from the payment of legal fees incidental to instituting an action in court, as an original proceeding or on appeal, qualified indigent clients of the NCLA and of the legal aid offices in local IBP chapters nationwide.

ARTICLE II
Definition of Terms

Section 1. *Definition of important terms*. – For purposes of this Rule and as used herein, the following terms shall be understood to be how they are defined under this Section:

(a) "Developmental legal aid" means the rendition of legal services in public interest causes involving overseas workers, fisherfolk, farmers, laborers, indigenous cultural communities, women, children and other disadvantaged groups and marginalized sectors;

(b) "Disinterested person" refers to the *punong barangay* having jurisdiction over the place where an applicant for legal aid or client of the NCLA or chapter legal aid office resides;

(c) "Falsity" refers to any material misrepresentation of fact or any fraudulent, deceitful, false, wrong or misleading

Supreme Court E-Library

statement in the application or affidavits submitted to support it or the affidavit of a disinterested person required to be submitted annually under this Rule which may substantially affect the determination of the qualifications of the applicant or the client under the means and merit tests;

(d) "Legal fees" refers to the legal fees imposed under Rule 141 of the Rules of Court as a necessary incident of instituting an action in court either as an original proceeding or on appeal. In particular, it includes filing or docket fees, appeal fees, fees for issuance of provisional remedies, mediation fees, sheriff's fees, stenographer's fees (that is fees for transcript of stenographic notes) and commissioner's fees;

(e) "Means test" refers to the set of criteria used to determine whether the applicant is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family;

(f) "Merit test" refers to the ascertainment of whether the applicant's cause of action or his defense is valid and whether the chances of establishing the same appear reasonable and

(g) "Representative" refers to the person authorized to file an application for legal aid in behalf of the applicant when the said applicant is prevented by a compelling reason from personally filing his application. As a rule, it refers to the immediate family members of the applicant. However, it may include any of the applicant's relatives or any person or concerned citizen of sufficient discretion who has first-hand knowledge of the personal circumstances of the applicant as well as of the facts of the applicant's case.

ARTICLE III
Coverage

Section 1. *Persons qualified for exemption from payment of legal fees*. – Persons who shall enjoy the benefit of exemption from the payment of legal fees incidental to instituting an action in court, as an original proceeding or on appeal, granted under this Rule shall be limited only to clients of the NCLA and the chapter legal aid offices.

Supreme Court E-Library

The said clients shall refer to those indigents qualified to receive free legal aid service from the NCLA and the chapter legal aid offices. Their qualifications shall be determined based on the tests provided in this Rule.

Section 2. *Persons not covered by the Rule*. – The following shall be disqualified from the coverage of this Rule. Nor may they be accepted as clients by the NCLA and the chapter legal aid offices.

(a) Juridical persons; except in cases covered by *developmental legal aid* or public interest causes involving juridical entities which are non-stock, non-profit organizations, non-governmental organizations and people's organizations whose individual members will pass the means test provided in this Rule;

(b) Persons who do not pass the means and merit tests;

(c) Parties already represented by a counsel *de parte*;

(d) Owners or lessors of residential lands or buildings with respect to the filing of collection or unlawful detainer suits against their tenants and

(e) Persons who have been clients of the NCLA or chapter legal aid office previously in a case where the NCLA or chapter legal aid office withdrew its representation because of a falsity in the application or in any of the affidavits supporting the said application.

Section 3. *Cases not covered by the Rule*. – The NCLA and the chapter legal aid offices shall not handle the following:

(a) Cases where conflicting interests will be represented by the NCLA and the chapter legal aid offices and

(b) Prosecution of criminal cases in court.

ARTICLE IV
Tests of Indigency

Section 1. *Tests for determining who may be clients of the NCLA and the legal aid offices in local IBP chapters*. – The NCLA or the chapter legal aid committee, as the case may be, shall pass upon requests for legal aid by the combined application of the means and merit tests and the consideration of other relevant factors provided for in the following sections.

Supreme Court E-Library

Section 2. *Means test; exception*. – (a) This test shall be based on the following criteria: (i) the applicant and that of his immediate family must have a gross monthly income that does not exceed an amount double the monthly minimum wage of an employee in the place where the applicant resides and (ii) he does not own real property with a fair market value as stated in the current tax declaration of more than Three Hundred Thousand (₱300,000.00) Pesos.

In this connection, the applicant shall execute an affidavit of indigency (printed at the back of the application form) stating that he and his immediate family do not earn a gross income abovementioned, nor own any real property with the fair value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the applicant's affidavit. The latest income tax return and/or current tax declaration, if any, shall be attached to the applicant's affidavit.

(b) The means test shall not be applicable to applicants who fall under the developmental legal aid program such as overseas workers, fisherfolk, farmers, laborers, indigenous cultural communities, women, children and other disadvantaged groups.

Section 3. *Merit test*. – A case shall be considered meritorious if an assessment of the law and evidence at hand discloses that the legal service will be in aid of justice or in the furtherance thereof, taking into consideration the interests of the party and those of society. A case fails this test if, after consideration of the law and evidence presented by the applicant, it appears that it is intended merely to harass or injure the opposite party or to work oppression or wrong.

Section 4. *Other relevant factors that may be considered*. – The effect of legal aid or of the failure to render the same upon the rule of law, the proper administration of justice, the public interest involved in a given case and the practice of law in the locality shall likewise be considered.

ARTICLE V
Acceptance and Handling of Cases

Section 1. *Procedure in accepting cases*. – The following procedure shall be observed in the acceptance of cases for purposes of this Rule:

(a) Filing of application – An application shall be made personally by the applicant, unless there is a compelling

Supreme Court E-Library

reason which prevents him from doing so, in which case his representative may apply for him. It shall adhere substantially to the form made for that purpose. It shall be prepared and signed by the applicant or, in proper cases, his duly authorized representative in at least three copies.

Applications for legal aid shall be filed with the NCLA or with the chapter legal aid committee.

The NCLA shall, as much as possible, concentrate on cases of paramount importance or national impact.

Requests received by the IBP National Office shall be referred by the NCLA to the proper chapter legal aid committee of the locality where the cases have to be filed or are pending. The chapter president and the chairman of the chapter's legal aid committee shall be advised of such referral.

(b) Interview – The applicant shall be interviewed by a member of the chapter legal aid committee or any chapter member authorized by the chapter legal aid committee to determine the applicant's qualifications based on the means and merit tests and other relevant factors. He shall also be required to submit copies of his latest income tax returns and/or current tax declaration, if available, and execute an affidavit of indigency printed at the back of the application form with the supporting affidavit of a disinterested person attesting to the truth of the applicant's affidavit.

After the interview, the applicant shall be informed that he can follow up the action on his application after five (5) working days.

(c) Action on the application – The chapter legal aid committee shall pass upon every request for legal aid and submit its recommendation to the chapter board of officers within three (3) working days after the interview of the applicant. The basis of the recommendation shall be stated.

The chapter board of officers shall review and act on the recommendation of the chapter legal aid committee within two (2) working days from receipt thereof; *Provided*, however, that in urgent matters requiring prompt or immediate action, the chapter's executive director of legal

Supreme Court E-Library

aid or whoever performs his functions may provisionally act on the application, subject to review by the chapter legal aid committee and, thereafter, by the chapter board of officers.

The action of the chapter board of officers on the application shall be final.

(d) *Cases which may be provisionally accepted*. – In the following cases, the NCLA or the chapter legal aid office, through the chapter's executive director of legal aid or whoever performs his functions may accept cases provisionally pending verification of the applicant's indigency and an evaluation of the merit of his case.

(i) Where a warrant for the arrest of the applicant has been issued;

(ii) Where a pleading has to be filed immediately to avoid adverse effects to the applicant;

(iii) Where an appeal has to be urgently perfected or a petition for *certiorari*, prohibition or *mandamus* filed has to be filed immediately; and

(iv) Other similar urgent cases.

(e) Assignment of control number – Upon approval of the chapter board of officers of a person's application and the applicant is found to be qualified for legal assistance, the case shall be assigned a control number. The numbering shall be consecutive starting from January to December of every year. The control number shall also indicate the region and the chapter handling the case.

Example:

Region[18]	Chapter	Year	Month	Number
GM -	Manila -	2009 -	03 -	099

[18] For purposes of the Rule, the following abbreviations shall be used to refer to the various regions of the IBP: NL – Northern Luzon, CL – Central Luzon, GM – Greater Manila, SL – Southern Luzon, B – Bicolandia, EV – Eastern Visayas, WV – Western Visayas, EM – Eastern Mindanao and WM – Western Mindanao.

Supreme Court E-Library

(f) Issuance of a certification – After an application is approved and a control number duly assigned, the chapter board of officers shall issue a certification that the person (that is, the successful applicant) is a client of the NCLA or of the chapter legal aid office. The certification shall bear the control number of the case and shall state the name of the client and the nature of the judicial action subject of the legal aid of the NCLA or the legal aid office of a local IBP chapter.

The certification shall be issued to the successful applicant free of charge.

Section 2. *Assignment of cases.* – After a case is given a control number, the chapter board of officers shall refer it back to the chapter legal aid committee. The chapter legal aid committee shall assign the case to any chapter member who is willing to handle the case.

In case no chapter member has signified an intention to handle the case voluntarily, the chapter legal aid committee shall refer the matter to the chapter board of officers together with the names of at least three members who, in the chapter legal aid committee's discretion, may competently render legal aid on the matter. The chapter board of officers shall appoint one chapter member from among the list of names submitted by the chapter legal aid committee. The chapter member chosen may not refuse the appointment except on the ground of conflict of interest or other equally compelling grounds as provided in the Code of Professional Responsibility,[19] in which case the chapter board of officers shall appoint his replacement from among the remaining names in the list previously submitted by the chapter legal aid committee.

The chapter legal aid committee and the chapter board of officers shall take the necessary measures to ensure that cases are well-distributed to chapter members.

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[19] This is based on the principle that legal aid is not a matter of charity. It is a means for the correction of social imbalances that may and often do lead to injustice, for which reason it is a public responsibility of the bar. The spirit of public service should, therefore, underlie all legal aid offices. The same should be so administered as to give maximum possible assistance to indigent and deserving members of the community in all cases, matters and situations in which legal aid may be necessary to forestall an injustice (Section 1, Article I, Guidelines on Legal Aid). The aforementioned principle is likewise a primary basis of the Rule on Mandatory Legal Aid Service.

Supreme Court E-Library

Section 3. *Policies and guidelines in the acceptance and handling of cases*. – The following policies and guidelines shall be observed in the acceptance and handling of cases:

(a) First come, first served – Where both the complainant/plaintiff/petitioner and defendant/respondent apply for legal aid and both are qualified, the first to seek assistance shall be given preference.

(b) Avoidance of conflict of interest – Where acceptance of a case will give rise to a conflict of interest on the part of the chapter legal aid office, the applicant shall be duly informed and advised to seek the services of a private counsel or another legal aid organization.

Where handling of the case will give rise to a conflict of interest on the part of the chapter member assigned to the case, the client shall be duly informed and advised about it. The handling lawyer shall also inform the chapter legal aid committee so that another chapter member may be assigned to handle the case. For purposes of choosing the substitute handling lawyer, the rule in the immediately preceding section shall be observed.

(c) Legal aid is purely gratuitous and honorary – No member of the chapter or member of the staff of the NCLA or chapter legal aid office shall directly or indirectly demand or request from an applicant or client any compensation, gift or present for legal aid services being applied for or rendered.

(d) Same standard of conduct and equal treatment – A chapter member who is tasked to handle a case accepted by the NCLA or by the chapter legal aid office shall observe the same standard of conduct governing his relations with paying clients. He shall treat the client of the NCLA or of the chapter legal aid office and the said client's case in a manner that is equal and similar to his treatment of a paying client and his case.

(e) Falsity in the application or in the affidavits – Any falsity in the application or in the affidavit of indigency or in the affidavit of a disinterested person shall be sufficient cause for the NCLA or chapter legal aid office to withdraw or terminate the legal aid. For this purpose, the chapter board of officers shall authorize the handling lawyer to file the

Supreme Court E-Library

proper manifestation of withdrawal of appearance of the chapter legal aid office in the case with a motion for the dismissal of the complaint or action of the erring client. The court, after hearing, shall approve the withdrawal of appearance and grant the motion, without prejudice to whatever criminal liability may have been incurred.

Violation of this policy shall disqualify the erring client from availing of the benefits of this Rule in the future.

(f) Statement in the initiatory pleading – To avail of the benefits of the Rule, the initiatory pleading shall state as an essential preliminary allegation that (i) the party initiating the action is a client of the NCLA or of the chapter legal aid office and therefore entitled to exemption from the payment of legal fees under this Rule and (ii) a certified true copy of the certification issued pursuant to Section 1(e), of this Article is attached or annexed to the pleading.

Failure to make the statement shall be a ground for the dismissal of the action without prejudice to its refiling.

The same rule shall apply in case the client, through the NCLA or chapter legal aid office, files an appeal.

(g) Attachment of certification in initiatory pleading – A certified true copy of the certification issued pursuant to Section 1(e), of this Article shall be attached as an annex to the initiatory pleading.

Failure to attach a certified true copy of the said certification shall be a ground for the dismissal of the action without prejudice to its refiling.

The same rule shall apply in case the client, through the NCLA or chapter legal aid office, files an appeal.

(h) Signing of pleadings – All complaints, petitions, answers, replies, memoranda and other important pleadings or motions to be filed in courts shall be signed by the handling lawyer and co-signed by the chairperson or a member of the chapter legal aid committee, or in urgent cases, by the executive director of legal aid or whoever performs his functions.

Supreme Court E-Library

Ordinary motions such as motions for extension of time to file a pleading or for postponement of hearing and manifestations may be signed by the handling lawyer alone.

(i) Motions for extension of time or for postponement – The filing of motions for extension of time to file a pleading or for postponement of hearing shall be avoided as much as possible as they cause delay to the case and prolong the proceedings.

(j) Transfer of cases – Transfer of cases from one handling lawyer to another shall be affected only upon approval of the chapter legal aid committee.

Section 4. *Decision to appeal*. – (a) All appeals must be made on the request of the client himself. For this purpose, the client shall be made to fill up a request to appeal.

(b) Only meritorious cases shall be appealed. If the handling lawyer, in consultation with the chapter legal aid committee, finds that there is no merit to the appeal, the client should be immediately informed thereof in writing and the record of the case turned over to him, under proper receipt. If the client insists on appealing the case, the lawyer handling the case should perfect the appeal before turning over the records of the case to him.

Section 5. *Protection of private practice*. – Utmost care shall be taken to ensure that legal aid is neither availed of to the detriment of the private practice of law nor taken advantage of by anyone for purely personal ends.

ARTICLE VI
Withdrawal of Legal Aid and Termination of Exemption

Section 1. *Withdrawal of legal aid*. – The NCLA or the chapter legal aid committee may, in justifiable instances as provided in the next Section, direct the handling lawyer to withdraw representation of a client's cause upon approval of the IBP Board of Governors (in the case of the NCLA) or of the chapter board of officers (in the case of the chapter legal aid committee) and through a proper motion filed in Court.

Section 2. *Grounds for withdrawal of legal aid*. – Withdrawal may be warranted in the following situations:

Supreme Court E-Library

(a) In a case that has been provisionally accepted, where it is subsequently ascertained that the client is not qualified for legal aid;

(b) Where the client's income or resources improve and he no longer qualifies for continued assistance based on the means test. For this purpose, on or before January 15 every year, the client shall submit an affidavit of a disinterested person stating that the client and his immediate family do not earn a gross income mentioned in Section 2, Article V, nor own any real property with the fair market value mentioned in the same Section;

(c) When it is shown or found that the client committed a falsity in the application or in the affidavits submitted to support the application;

(d) When the client subsequently engages a *de parte* counsel or is provided with a *de oficio* counsel;

(e) When, despite proper advice from the handling lawyer, the client cannot be refrained from doing things which the lawyer himself ought not do under the ethics of the legal profession, particularly with reference to their conduct towards courts, judicial officers, witnesses and litigants, or the client insists on having control of the trial, theory of the case, or strategy in procedure which would tend to result in incalculable harm to the interests of the client;

(f) When, despite notice from the handling lawyer, the client does not cooperate or coordinate with the handling lawyer to the prejudice of the proper and effective rendition of legal aid such as when the client fails to provide documents necessary to support his case or unreasonably fails to attend hearings when his presence thereat is required; and

(g) When it becomes apparent that the representation of the client's cause will result in a representation of conflicting interests, as where the adverse party had previously engaged the services of the NCLA or of the chapter legal aid office and the subject matter of the litigation is directly related to the services previously rendered to the adverse party.

Supreme Court E-Library

Section 3. *Effect of withdrawal*. – The court, after hearing, shall allow the NCLA or the chapter legal aid office to withdraw if it is satisfied that the ground for such withdrawal exists.

Except when the withdrawal is based on paragraphs (b), (d) and (g) of the immediately preceding Section, the court shall also order the dismissal of the case. Such dismissal is without prejudice to whatever criminal liability may have been incurred if the withdrawal is based on paragraph (c) of the immediately preceding Section.

ARTICLE VII
Miscellaneous Provisions

Section 1. *Lien on favorable judgment*. – The amount of the docket and other lawful fees which the client was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

In case, attorney's fees have been awarded to the client, the same shall belong to the NCLA or to the chapter legal aid office that rendered the legal aid, as the case may be. It shall form part of a special fund which shall be exclusively used to support the legal aid program of the NCLA or the chapter legal aid office. In this connection, the chapter board of officers shall report the receipt of attorney's fees pursuant to this Section to the NCLA within ten (10) days from receipt thereof. The NCLA shall, in turn, include the data on attorney's fees received by IBP chapters pursuant to this Section in its liquidation report for the annual subsidy for legal aid.

Section 2. *Duty of NCLA to prepare forms*. – The NCLA shall prepare the standard forms to be used in connection with this Rule. In particular, the NCLA shall prepare the following standard forms: the application form, the affidavit of indigency, the supporting affidavit of a disinterested person, the affidavit of a disinterested person required to be submitted annually under Section 2(b), Article VI, the certification issued by the NCLA or the chapter board of officers under Section 1(f), Article V and the request to appeal.

The said forms, except the certification, shall be in Filipino. Within sixty (60) days from receipt of the forms from the NCLA, the chapter legal aid offices shall make translations of the said forms in the dominant dialect used in their respective localities.

Section 3. *Effect of Rule on right to bring suits in forma pauperis*. – Nothing in this Rule shall be considered to preclude those persons

Supreme Court E-Library

not covered either by this Rule or by the exemption from the payment of legal fees granted to clients of the Public Attorney's Office under Section 16-D of RA 9406 to litigate *in forma pauperis* under Section 21, Rule 3 and Section 19 Rule 141 of the Rules of Court.

Section 4. *Compliance with Rule on Mandatory Legal Aid Service.* – Legal aid service rendered by a lawyer under this Rule either as a handling lawyer or as an interviewer of applicants under Section 1(b), Article IV hereof shall be credited for purposes of compliance with the Rule on Mandatory Legal Aid Service.

The chairperson of the chapter legal aid office shall issue the certificate similar to that issued by the Clerk of Court in Section 5(b) of the Rule on Mandatory Legal Aid Service.

ARTICLE VIII
Effectivity

Section 1. *Effectivity.* – This Rule shall become effective after fifteen days following its publication in a newspaper of general circulation.

The above rule, in conjunction with Section 21, Rule 3 and Section 19, Rule 141 of the Rules of Court, the Rule on Mandatory Legal Aid Service and the Rule of Procedure for Small Claims Cases, shall form a solid base of rules upon which the right of access to courts by the poor shall be implemented. With these rules, we equip the poor with the tools to effectively, efficiently and easily enforce their rights in the judicial system.

A FINAL WORD

Equity will not suffer a wrong to be without a remedy. *Ubi jus ibi remedium.* Where there is a right, there must be a remedy. The remedy must not only be effective and efficient, but also readily accessible. For a remedy that is inaccessible is no remedy at all.

The Constitution guarantees the rights of the poor to free access to the courts and to adequate legal assistance. The legal aid service rendered by the NCLA and legal aid offices of IBP chapters nationwide addresses only the right to adequate legal assistance. Recipients of the service of the NCLA and legal aid offices of IBP chapters may enjoy free access to courts by

Supreme Court E-Library

exempting them from the payment of fees assessed in connection with the filing of a complaint or action in court. With these twin initiatives, the guarantee of Section 11, Article III of Constitution is advanced and access to justice is increased by bridging a significant gap and removing a major roadblock.

WHEREFORE, the Misamis Oriental Chapter of the Integrated Bar of the Philippines is hereby *COMMENDED* for helping increase the access to justice by the poor. The request of the Misamis Oriental Chapter for the exemption from the payment of filing, docket and other fees of the clients of the legal aid offices of the various IBP chapters is *GRANTED*. The Rule on the Exemption From the Payment of Legal Fees of the Clients of the National Committee on Legal Aid (NCLA) and of the Legal Aid Offices in the Local Chapters of the Integrated Bar of the Philippines (IBP) (which shall be assigned the docket number A.M. No. 08-11-7-SC [IRR] provided in this resolution is hereby *APPROVED*. In this connection, the Clerk of Court is *DIRECTED* to cause the publication of the said rule in a newspaper of general circulation within five days from the promulgation of this resolution.

The Office of the Court Administrator is hereby directed to promptly issue a circular to inform all courts in the Philippines of the import of this resolution.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-de Castro, Brion, Peralta, Bersamin, Del Castillo, and *Abad, JJ.,* concur.