



Republic of the Philippines
Supreme Court
Manila

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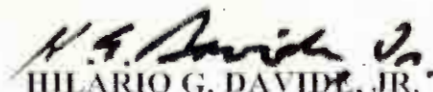
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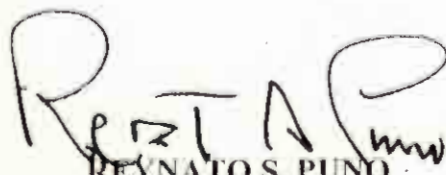
REVISED RULES OF THE COURT OF TAX APPEALS

Acting on the letter of the Chairman of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the Proposed Revised Rules of the Court of Tax Appeals, the Court Resolved to APPROVE the same.

The Rule shall take effect on the fifteenth day of December 2005 following its publication in a newspaper of general circulation in the Philippines not later than 25 November 2005.

22 November 2005.


HILARIO G. DAVIDE, JR.
Chief Justice


REYNATO S. PUNO
Associate Justice

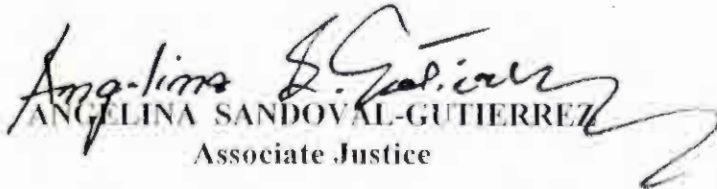

ARTEMIO V. PANGANIBAN
Associate Justice



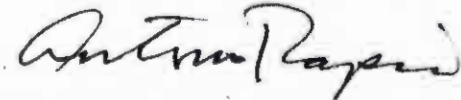
LEONARDO A. QUISUMBING
Associate Justice




CONSUELO YNARES-SANTIAGO
Associate Justice



ANGELINA SANDOVAL-GUTIERREZ
Associate Justice



ANTONIO T. CARPIO
Associate Justice



MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice



RENATO C. CORONA
Associate Justice



CONCHITA CARPIO MORALES
Associate Justice



ROMEO J. CALLEJO, SR.
Associate Justice



ADOLFO S. AZCUNA
Associate Justice



DANTE O. TINGA
Associate Justice

(on leave)
MINITA V. CHICO-NAZARIO
Associate Justice



CANCIO C. GARCIA
Associate Justice

**REVISED RULES
OF
THE COURT OF TAX APPEALS**

Pursuant to Section 8 of Republic Act No. 1125, as further amended by Republic Act No. 9282, the Court of Tax Appeals (hereinafter referred to as the Court) hereby adopts and promulgates the following Rules for the conduct of its business:

**RULE 1
TITLE AND CONSTRUCTION**

SECTION 1. *Title of the Rules.*—These Rules shall be known and cited as the Revised Rules of the Court of Tax Appeals (RRCTA). (*RCTA, Rule 1, sec. 1a*)

SEC. 2. *Liberal construction.*—The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court. (*RCTA, Rule 1, sec. 2a*)

SEC. 3. *Applicability of the Rules of Court.*—The Rules of Court in the Philippines shall apply suppletorily to these Rules. (*n*)

**RULE 2
THE COURT, ITS ORGANIZATION AND FUNCTIONS**

SECTION 1. *Composition of the Court.*—The Court is composed of a presiding justice and five associate justices appointed by the President of the

Philippines. In appropriate cases, the Court shall sit *en banc*, or in two Divisions of three justices each, including the presiding justice, who shall be the Chairman of its First Division. (n)

SEC. 2. *Exercise of powers and functions.*—The Court shall exercise its adjudicative powers, functions and duties *en banc* or in Divisions.

The Court shall sit *en banc* in the exercise of its administrative, ceremonial and non-adjudicative functions. (n)

SEC. 3. *Court en banc; quorum and voting.*—The presiding justice or, in his absence, the most senior justice in attendance shall preside over the sessions of the Court *en banc*. The attendance of four justices of the Court shall constitute a quorum for its session *en banc*. The presence at the deliberation and the affirmative vote of four justices of the Court *en banc* shall be necessary for the rendition of a decision or resolution on any case or matter submitted for its consideration. Where the necessary majority vote cannot be had, the petition shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied.

No decision of a Division of the Court may be reversed or modified except by the affirmative vote of four justices of the Court *en banc* acting on the case.

Interlocutory orders or resolutions shall be acted upon by majority vote of the justices present constituting a quorum.

(Rules of Court, Rule 56, sec. 7a)

SEC. 4. *The Court in Divisions; quorum and voting.*—The chairman of the Division or, in his absence, its senior member shall preside over the sessions of the Court in Divisions. The attendance of at least two justices of the Court shall be necessary to constitute a quorum for its sessions in Divisions. The presence at the deliberation and the affirmative vote of at least two justices shall be required for the pronouncement of a judgment or final resolution of the Court in Divisions. (n)

SEC. 5. *Hearings.*—The Court *en banc* or in Divisions shall conduct hearings on such days and at such times and at such places as it may fix, with notice to the parties concerned. However, the Friday of each week shall be devoted to hearing motions, unless, for special reasons, the Court *en banc* or in Divisions shall, *motu proprio* or upon motion of a party, fix another day for the hearing of any motion. (RCTA, Rule 3, sec. 2a)

SEC. 6. *Disqualification of justices.*—

(a) *Mandatory.*—No justice or other officer or employee of the Court shall intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of the Court. Justices of the Court shall be disqualified from sitting in any case on the same grounds provided under the first paragraph, Section 1, Rule 137 of the Rules of Court. No person who has once served in the Court either as presiding justice or as associate justice shall be qualified to practice as counsel before the Court for a period of one year from his retirement or resignation as such. (Rules of Court, Rule 137, sec. 1, par. 1a)

(b) *Disclosure and consent of parties and lawyers.*—A justice disqualified under the first paragraph, Section 1 of Rule 137 of the Rules of Court, may, instead of withdrawing from a case or proceeding, disclose on the records the basis of his disqualification. If, based on such disclosure, the parties and lawyers, independently of the justice's participation, all agree in writing that the reason for the inhibition is immaterial or unsubstantial, the justice may participate in the action or proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the action or proceeding. (*Rules of Court, Rule 137, sec. 1, par. 1a*)

(c) *Voluntary.* —A justice of the Court may, in the exercise of his sound discretion, disqualify himself from sitting in a case or proceeding, for just or valid reasons other than those mentioned above. (*Rules of Court, Rule 137, sec. 1, par. 2a*)

A justice of the Court who inhibits himself from sitting in a case or proceeding shall immediately notify in writing the presiding justice and the members of his Division. (*n*)

SEC. 7. *Motion to inhibit a justice.*—When a motion for inhibition of a justice is filed, the Court, *en banc* or in Division, shall act upon the motion. However, if the motion for inhibition is based on a discretionary ground, the Court shall refer the motion to the justice involved for his appropriate action.

(*n*)

RULE 3
PLACE OF OFFICE, SEAL AND OFFICE HOURS

SECTION 1. *Place of office.*—The Court shall have its principal office in Metro Manila. *(RCTA, Rule 3, sec. 1a)*

SEC. 2. *Court seal.*—The seal of the Court shall be circular in form and shall be of the usual size. It shall bear, in its center, a design of the coat of arms of the Republic of the Philippines with the words “BATAS AT BAYAN” immediately underneath the design. On the upper margin running from left to right are the words “COURT OF TAX APPEALS,” and on its lower margin the words “REPUBLIKA NG PILIPINAS.” *(RCTA, Rule 2, sec. 1a)*

SEC. 3. *Seal, where affixed.*—The seal of the Court shall be affixed to all summons, subpoenas, notices, decisions, orders or resolutions, certified copies of official records and such other papers that the Court may require to be sealed. *(n)*

SEC. 4. *Office hours.*—The Office of the Clerk of Court shall be open for the transaction of business and receiving petitions, complaints, pleadings, motions, and other papers, during the hours from eight o'clock in the morning to four-thirty o'clock in the afternoon on Mondays to Fridays, except on such days as may be designated by law or executive proclamation as non-working official holidays. *(RCTA, Rule 3, sec. 3a)*

RULE 4
JURISDICTION OF THE COURT

SECTION 1. *Jurisdiction of the Court.*—The Court shall exercise exclusive original jurisdiction over or appellate jurisdiction to review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7. (n)

SEC. 2. *Cases within the jurisdiction of the Court en banc.*—The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

- (1) Cases arising from administrative agencies
— Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
- (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
- (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees,

charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;

(b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

(c) Decisions, resolutions or orders of the Regional Trial Courts in tax collection cases decided or resolved by them in the exercise of their appellate jurisdiction;

(d) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over tax collection cases;

(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

(f) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive original jurisdiction over cases involving criminal offenses arising from violations of the National Internal Revenue Code or the Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or Bureau of Customs;

(g) Decisions, resolutions or orders on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate

jurisdiction over criminal offenses mentioned in the preceding subparagraph;
and

(h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f).

(n).

SEC. 3. *Cases within the jurisdiction of the Court in Divisions.*—The Court in Divisions shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or

other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with

- the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;
- (3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;
 - (4) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
 - (5) Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs adverse to the Government under Section 2315 of the Tariff and Customs Code; and
 - (6) Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture, in the case of

agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties;

- (b) Exclusive jurisdiction over cases involving criminal offenses, to

wit:

- (1) Original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and
- (2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in their original jurisdiction in criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal

Revenue or Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than one million pesos or where there is no specified amount claimed;

(c) Exclusive jurisdiction over tax collection cases, to wit:

(1) Original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and

(2) Appellate jurisdiction over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them within their respective territorial jurisdiction.

(n)

RULE 5 FORM AND STYLE OF PAPERS

SECTION 1. *Style.*—All papers filed with the Court shall be either printed or typewritten, and fastened on the upper left hand corner. All such papers shall have a caption, date and signature, and copies, as specified below. (*RCTA, Rule 4, sec. 1a*)

SEC. 2. *Size and specifications.*—Printed or typewritten papers shall be typed double-spaced on good quality, unglazed and plain white paper eight and a half inches wide by thirteen inches long (legal-size), or eight and a quarter inches wide by eleven and three-fourths inches long (A4-size), at least substance twenty and printed on one side only without covers. There shall be a margin at the left-hand side of each page of not less than one and one-half inches in width and at the top, bottom and right-hand side of each page of not less than one inch in width. (RCTA, Rule 4, sec. 3a)

SEC. 3. *Citations.*—Citations shall be indented at least one inch from the inside margin and typed single-spaced. (RCTA, Rule 4, sec. 4a)

SEC. 4. *Number of copies.*—The parties shall file eleven signed copies of every paper for cases before the Court *en banc* and six signed copies for cases before a Division of the Court in addition to the signed original copy, except as otherwise directed by the Court. Papers to be filed in more than one case shall include one additional copy for each additional case. (RCTA, Rule 4, sec. 5a)

SEC. 5. *Clear and legible copies.*—All copies shall be clear and legible. (RCTA, Rule 4, sec. 6a)

RULE 6 PLEADINGS FILED WITH THE COURT

SECTION 1. *Complaint; contents.*—The complaint shall contain allegations showing jurisdiction of the Court and a concise statement of the

complete facts of the plaintiff's cause or causes of action. The complaint shall be verified and must contain a certification against forum shopping as provided in Sections 4 and 5, Rule 7 of the Rules of Court. (n)

SEC. 2. *Petition for review; contents.*—The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition. (RCTA, Rule 5, sec. 2a)

SEC. 3. *Payment of docket fees.*—The Clerk of Court shall not receive a petition for review for filing unless the petitioner submits proof of payment of the docket fees. Upon receipt of the petition or the complaint, it will be docketed and assigned a number, which shall be placed by the parties on all papers thereafter filed in the proceeding. The Clerk of Court will then issue the necessary summons to the respondent or defendant. (RCTA, Rule 5, sec. 3a)

SEC. 4. *Bill of particulars.*—

(a) *Requirement for bill of particulars.*—The Court, on its own initiative or upon motion of either party filed before responding to a pleading or, if no responsive pleading is permitted by these Rules, within ten days after service of the pleading upon him, may order a party to submit a

detailed statement of the nature of the claim or defense or of any matter stated in any pleading, which is not averred with sufficient definiteness or particularity. Such order or motion shall point out the defects complained of and the details desired. After service of the bill of particulars or of a more definite pleading, the moving or adverse party may file his responsive pleading within ten days. (*RCTA, Rule 8, sec. 1a*)

(b) *Failure to comply.*—If the order issued by the Court pursuant to paragraph (a) above is not complied with within ten days after notice of the order, or within such other time as the Court may fix, the Court may strike out the pleading to which the motion was directed or may make such other order as it deems just. The Court may upon motion set aside the order, or modify it in the interest of justice. (*RCTA, Rule 8, sec. 2a*)

(c) *Motion for bill of particulars when not allowed.*—No motion for bill of particulars shall be allowed in cases falling under Sections 3(a)(3) and 3(c)(2) of Rule 4 of these Rules. (*n*)

SEC. 5. *Answer.*—

(a) *Time for filing and contents.*—Within fifteen days after service of summons, the respondent or the defendant shall file an answer to the petition or complaint which shall include all defenses in law and the specific provision of law and applicable jurisprudence and grounds for dismissal of the petition or complaint, or which shall prevent and bar recovery.

(*Rule of Procedure for Civil Forfeiture, Asset Preservation and Freeze Order, Sec. 9, par. 2a; and RCTA, Rule 7, sec. 1a*)

(b) *Transmittal of records.*—The respondent Commissioner of Internal Revenue, Commissioner of Customs, the Secretary of Finance, the

Secretary of Agriculture, or the Secretary of Trade and Industry, within ten days after his answer, the chairman of the Central Board of Assessment Appeals and the presiding judges of the Regional Trial Courts, within ten days from receipt of notice, shall certify and forward to the Court all the records of the case in their possession, with the pages duly numbered, and, if the records are in separate folders, then the folders will also be numbered. If there are no records, such fact shall be manifested to the Court within the same period of ten days. The Court may, on motion, and for good cause shown, grant an extension of time within which to submit the aforesaid records of the case. Failure to transmit the records within the time prescribed herein or within the time allowed by the Court may constitute indirect contempt of court. (*RCTA, Rule 7, sec. 2a*)

SEC. 6. *Entry of appearance.*—An attorney may enter his appearance by signing the initial pleading. An attorney may later enter his appearance only by filing an entry of appearance with the written conformity of his client.

The initial pleading or entry of appearance shall show:

- (1) The attorney's specific address which must not be a Post Office Box number;
- (2) His Roll of Attorney's Number;
- (3) The date and number of his current membership due in the Integrated Bar of the Philippines (IBP) per Official Receipt, or Lifetime Member Number;

- (4) Current Professional Tax Receipt (PTR) number together with date and place of issuance; and
- (5) MCLE certificate number and date of issue, unless exempt.

The attorney or party entering his appearance shall serve a copy of the entry of appearance upon the opposing party. An attorney who appears in open court without previously having filed his written appearance must give his business address to the Clerk of Court and file his written appearance within forty-eight hours from such open court appearance. An attorney or party who has filed his appearance and who changes his address of record shall notify the Clerk of Court and the adverse party of such change of address, and a separate notice of such change of address shall be filed for each additional case. *(RCTA, Rule 10, sec. 1a)*

RULE 7

PROCEDURE IN THE COURT OF TAX APPEALS

SECTION 1. *Applicability of the Rules of Court on procedure in the Court of Appeals, exception.*—The procedure in the Court *en banc* or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules. *(n)*

RULE 8 PROCEDURE IN CIVIL CASES

SECTION 1. *Review of cases in the Court en banc.*—In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. *(n)*

SEC. 2. *Review of cases in the Court in Division.*—In appealed cases falling under the jurisdiction of the Court in Division in Sections 3(a)(1) to 3(a)(6) and 3(c)(2) of Rule 4, the party filing the case shall be called the Petitioner and the party against whom the case is filed shall be called the Respondent. The pleading shall be entitled Petition for Review.

In tax collection cases originally filed with the Court under Section 3(c)(1) of Rule 4, the party filing the case shall be called the Plaintiff and the party against whom the case is filed shall be called the Defendant. The pleading shall be entitled Complaint. In appealed tax collection cases, the original captions shall be retained. The party filing the appeal shall be called the Appellant and the party against whom the appeal is filed shall be called the Appellee. *(RCTA, Rule 5, Sec. 1a)*

SEC. 3. *Who may appeal; period to file petition.*—(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs,

the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

(n)

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Rules of Court, Rule 42, sec. 1a*)

(c) A party adversely affected by a decision or ruling of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of their appellate jurisdiction may appeal to the Court by filing before it a petition for review within thirty days from receipt of a copy of the questioned decision or ruling. (n)

SEC. 4. *Where to appeal; mode of appeal.*—(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal. (n)

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)

(c) An appeal from a decision or ruling of the Central Board of Assessment Appeals or the Regional Trial Court in the exercise of their appellate jurisdiction shall be taken to the Court by filing before it a petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)

RULE 9 PROCEDURE IN CRIMINAL CASES

SECTION 1. *Review of cases in the Court.*—The review of criminal cases in the Court *en banc* or in Division shall be governed by the applicable provisions of Rule 124 of the Rules of Court. (n)

SEC. 2. *Institution of criminal actions.*—All criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines. In criminal actions involving violations of the National Internal Revenue Code and other laws enforced by the Bureau of Internal Revenue, the Commissioner of Internal Revenue must approve their filing. In criminal actions involving violations of the Tariff and Customs Code and other laws enforced by the Bureau of Customs, the Commissioner of Customs must approve their filing. (*Rules of Court, Rule 110, sec. 2a: n*)

The institution of the criminal action shall interrupt the running of the period of prescription. (*Rules of Court, Rule 110, sec. 1, par. 2a*)

SEC. 3. *Prosecution of criminal actions.*—All criminal actions shall be conducted and prosecuted under the direction and control of the public prosecutor. In criminal actions involving violation of the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, and violations of the Tariff and Customs Code or other laws enforced by the Bureau of Customs, the prosecution may be conducted by their respective duly deputized legal officers. (*Rules of Court, Rule 110, sec. 5, par. 6a*)

SEC. 4. *Warrant of arrest.*—Within ten days from the filing of the information, the Division of the Court to which the case was raffled shall evaluate the resolution of the public prosecutor and its supporting evidence. The Division may immediately dismiss the case if it finds that the evidence on record clearly fails to establish probable cause. If the Division finds probable cause, it shall issue a warrant of arrest signed by the Chairman of

the Division. In case of doubt on the existence of probable cause, the Division may order the prosecutor to present additional evidence, *ex parte*, within five days from notice. (*Rules of Court, Rule 112, sec. 6a*)

SEC. 5. *When search warrant may issue.*—The Division may issue a search warrant signed by its Chairman following the requirements of Rule 126 of the Rules of Court. (*n*)

SEC. 6. *Bail, how amount fixed; approval.*—The amount of bail to be posted in a case filed with the Court shall be fixed and approved by the Division to which the case is raffled: *Provided, however,* that where the accused is arrested, detained or otherwise placed in custody outside the Metropolitan Manila area, any judge of the Regional Trial Court of the place where the arrest is made may accept and approve the bail for his release and appearance before the Division to which his case is assigned. The judge who accepted the bail and released the accused shall inform the Division that issued the order of arrest of his action and forward to it the papers relative to the case. (*Rules of Court, Rule 114, sec. 17a.*)

SEC. 7. *Conditions of the bail.*—The conditions of the bail are that the accused shall appear and answer the complaint or information in the Division of the Court to which it is raffled or transferred for trial and submit himself to its orders and processes. If convicted, and the case is appealed to the Court *en banc* or to the Supreme Court, he will surrender himself for the execution of such judgment as the Court *en banc* or the Supreme Court may render; or that, in the event the case is to be tried anew or remanded for a

new trial, he shall appear before the Division to which it may be remanded and submit himself to its orders and processes. (*Rules of Court, Rule 114, sec. 2a*)

SEC 8. *Release order.*—The Clerk of Court shall issue the corresponding release order. (*Rules of Court, Rule 114, sec. 3a*)

SEC. 9. *Appeal; period to appeal.*—(a) An appeal to the Court in criminal cases decided by a Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal pursuant to Sections 3(a) and 6, Rule 122 of the Rules of Court within fifteen days from receipt of a copy of the decision or final order with the court which rendered the final judgment or order appealed from and by serving a copy upon the adverse party. The Court in Division shall act on the appeal.

(b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.

(c) An appeal to the Court in criminal cases decided by the Regional Trial Courts in the exercise of their appellate jurisdiction shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or final order appealed from. The Court *en banc* shall act on the appeal.

(n)

SEC. 10. *Solicitor General as counsel for the People and government officials sued in their official capacity.*—The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. He may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: *Provided, however,* such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General. (n)

SEC. 11. *Inclusion of civil action in criminal action.*—In cases within the jurisdiction of the Court, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall be deemed jointly instituted in the same proceeding. The filing of the criminal action shall necessarily carry with it the filing of the civil action. No right to reserve the filing of such civil action separately from the criminal action shall be allowed or recognized. (*Rules of Court, Rule 111, sec. 1[a], par. 1a*)

RULE 10
SUSPENSION OF COLLECTION OF TAX

SECTION 1. *No suspension of collection of tax, except as herein prescribed.*—No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of his tax liability as provided under existing laws, except as hereinafter prescribed.
(n)

SEC. 2. *Who may file.*—Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any property of the taxpayer, or by whatever means, as provided under existing laws, may jeopardize the interest of the Government or the taxpayer, an interested party may file a motion for the suspension of the collection of the tax liability. *(RCTA, Rule 12, sec. 1a)*

SEC. 3. *When to file.*—The motion for the suspension of the collection of the tax may be filed together with the petition for review or with the answer, or in a separate motion filed by the interested party at any stage of the proceedings. *(RCTA, Rule 12, sec. 2)*

SEC. 4. *Contents and attachments of the motion.*—The motion for the suspension of the collection of the tax shall be verified and shall state clearly and distinctly the facts and the grounds relied upon in support of the motion. Affidavits and other documentary evidence in support thereof shall be attached thereto, which, if uncontroverted, would be admissible in evidence as proof of the facts alleged in the motion. *(RCTA, Rule 12, sec. 3a)*

SEC. 5. *Opposition.*—Unless a shorter period is fixed by the Court because of the urgency of the motion, the adverse party shall, within five days after receipt of a copy of the motion, file an opposition thereto, if any, which shall state clearly and distinctly the facts and the grounds relied upon in support of the opposition. (*RCTA, Rule 12, sec. 4*)

SEC. 6. *Hearing of the motion.*—The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. However, for the sake of expediency, the Court, *motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case. (*RCTA, Rule 12, sec. 5a*)

SEC. 7. *Corporate surety bonds.*—In the selection and qualification of surety companies, the parties and the Court shall be guided by Supreme Court Circular A.M. No. 04-7-02-SC, dated July 20, 2004. (*n*)

RULE 11 PRE-TRIAL

SECTION 1. *Applicability.*—The rule on pre-trial under Rules 18 and 118 of the Rules of Court, as amplified in A.M. No. 03-1-09-SC dated July 13, 2004 (Re: Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures), shall apply to all cases falling within the original jurisdiction of the Court, except that the parties may not be allowed to compromise the criminal liability or submit the case to mediation, arbitration or other mode of alternative dispute resolution. *(n)*

SEC. 2. *Mandatory pre-trial.*—In civil cases, the Clerk of Court shall set the case for pre-trial on the first available date immediately following the tenth day after the filing of the answer.

In criminal cases, the Clerk of Court shall set the case for pre-trial not later than ten days after arraignment, if the accused is detained, nor later than thirty days if the accused is on bail.

(RCTA, Rule 11, sec. 1a)

SEC. 3. *Setting for an earlier date.*—Where, due to the urgency of the case, either party desires that the pre-trial be set on an earlier date, such party shall so state in his pleading, in which event the Clerk of Court shall set the pre-trial on the first available date immediately after the filing of the answer. *(RCTA, Rule 11, sec. 2a)*

SEC. 4. *Duty of the Court.*—The Court shall confer with the parties in pre-trial conferences with a view to narrowing the issues, making admissions of or stipulating on facts, simplifying the presentation of evidence, or otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial. (n)

SEC. 5. *Procedure in civil cases.*—In civil cases, the parties shall submit, at least three days before the pre-trial, their respective pre-trial briefs containing the following:

- (a) A statement of their willingness to compromise the civil liability indicating its desired terms, except that the case shall not be subject to referral to mediation, arbitration or other mode of alternative dispute resolution;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The issues to be tried or resolved;
- (d) The documents or exhibits to be presented, stating their purpose. No evidence shall be allowed to be presented and offered during the trial in support of a party's evidence-in-chief other than those that had been pre-marked and identified, unless allowed by the Court to prevent manifest injustice;
- (e) A manifestation of their having availed themselves of discovery procedures or referral to commissioners; and

- (f) The numbers and names of the witnesses, the substance of their testimonies and the approximate number of hours that will be required by the parties for the presentation of their respective witnesses.

The consequence on the party at fault shall be the same as the effect of failure to appear.

Failure to file the pre-trial brief or to comply with its required contents shall have the same effect as failure to appear at the pre-trial.

(Rules of Court, Rule 18, sec. 6a)

SEC. 6. Procedure in criminal cases.—

(a) *Before the preliminary conference.—*Before the pre-trial conference, the Court may issue an order referring the case to the Division Clerk of Court for a preliminary conference of the parties at least three days prior to the pre-trial:

- (1) To mark the documents or exhibits to be presented by the parties and copies to be attached to the records after comparison;
- (2) To consider other matters as may aid in its disposition; and
- (3) To inform the parties that no evidence shall be allowed to be presented and offered during the trial other than those identified and marked during the pre-trial unless allowed by the Court to prevent manifest injustice.

(Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures, Sec. 1B[2]a)

(b) *During the preliminary conference.*—The Division Clerk of Court shall:

- (1) Mark the documents to be presented as exhibits and copies attached to the records after comparison;
- (2) Ascertain from the parties the undisputed facts and admission on the genuineness and due execution of documents marked as exhibits; and
- (3) Consider such other matters as may aid in the prompt disposition of the case.

The proceedings during the preliminary conference shall be recorded in the minutes of preliminary conference to be signed by both parties and counsel. The Division Clerk of Court shall attach the minutes of preliminary conference and the exhibits to the case record before the pre-trial.

(Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures, Sec. 1B[3]a)

(c) *During the pre-trial conference.*—The Court at the pre-trial conference shall consider the following:

- (1) Stipulation of facts and issues raised;
- (2) Marking for identification of evidence of the parties;
- (3) Waiver of objections to admissibility of evidence;
- (4) Modification of order of trial; and
- (5) Such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.

(Rules of Court, Rule 118, sec. 1a).

All agreements or admissions made or entered during the pre-trial conference shall be in writing and signed by the accused and counsel; otherwise, they cannot be used in evidence against the accused. The agreements shall be subject to the approval of the Court.

(Rule on Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-trial and Use of Deposition-Discovery Measures, Sec. 1B[8]a; and Rules of Court, Rule 118, sec. 2a)

The Court may impose appropriate sanctions or penalties on the accused or counsel or the prosecutor who does not appear at the pre-trial conference and does not offer an acceptable excuse for his absence and lack of cooperation. *(Rules of Court, Rule 118, sec. 3a)*.

(d) *Pre-trial order.*—After the pre-trial conference, the Court shall issue a pre-trial order reciting the actions taken, the facts stipulated, the admissions made, evidence marked, and such other matters covered during the pre-trial conference. The order shall bind the parties, limit the trial to matters not disposed of and control the course of the action during the trial, unless modified by the Court to prevent manifest injustice. *(Rules of Court, Rule 118, sec. 4a)*

RULE 12 TRIAL

SECTION 1. *Procedure.*—The Court shall conduct the trial in accordance with Rule 30 of the Rules of Court in civil cases and Rule 119 thereof in criminal cases. *(n)*

SEC. 2. *Power of the Court to receive evidence.*—The Court may receive evidence in the following cases:

- (a) In all cases falling within the original jurisdiction of the Court in Division pursuant to Section 3, Rule 4 of these Rules; and
- (b) In appeals in both civil and criminal cases where the Court grants a new trial pursuant to Section 2, Rule 53 and Section 12, Rule 124 of the Rules of Court.

(n)

SEC. 3. *Taking of evidence by a justice.*—The Court may, *motu proprio* or upon proper motion, direct that a case, or any issue therein, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises at any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account. The hearing before such justice shall proceed in all respects as though the same had been made before the Court.

Upon the completion of such hearing, the justice concerned shall promptly submit to the Court a written report thereon, stating therein his findings and conclusions. Thereafter, the Court shall render its decision on the case, adopting, modifying, or rejecting the report in whole or in part, or, the Court may, in its discretion, recommit it to the justice with instructions, or receive further evidence.

(n)

SEC. 4. *Taking of evidence by Court official.*—In default or *ex parte* hearings, or in any case where the parties agree in writing, the Court may delegate the reception of evidence to the Clerk of Court, the Division Clerks of Court, their assistants who are members of the Philippine bar, or any Court attorney. The reception of documentary evidence by a Court official shall be for the sole purpose of marking, comparison with the original, and identification by witnesses of such documentary evidence. The Court official shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the Court upon submission of his report and the transcripts within ten days from termination of the hearing. (*Rules of Court, Rule 30, sec. 9a*)

SEC. 5. *Presentation of voluminous documents or long accounts.*—In the interest of speedy administration of justice, the following rules shall govern the presentation of voluminous documents or long accounts, such as receipts, invoices and vouchers, as evidence to establish certain facts:

(a) *Summary and CPA certification.*—The party who desires to introduce in evidence such voluminous documents or long accounts must, upon motion and approval by the Court, refer the voluminous documents to an independent Certified Public Accountant (CPA) for the purpose of presenting:

- (1) a summary containing, among other matters, a chronological listing of the numbers, dates and amounts covered by the invoices or receipts and the amount(s) of taxes paid; and

- (2) a certification of an independent CPA attesting to the correctness of the contents of the summary after making an examination, evaluation and audit of voluminous receipts, invoices or long accounts.

The name of the Certified Public Accountant or partner of a professional partnership of certified public accountants in charge must be stated in the motion. The Court shall issue a commission authorizing him to conduct an audit and, thereafter, testify relative to such summary and certification.

(b) *Pre-marking and availability of originals.*—The receipts, invoices, vouchers or other documents covering the said accounts or payment to be introduced in evidence must be pre-marked by the party concerned and submitted to the Court in order to be made accessible to the adverse party who desires to check and verify the correctness of the summary and CPA certification. The original copies of the voluminous receipts, invoices or accounts must be ready for verification and comparison in case doubt on its authenticity is raised during the hearing or resolution of the formal offer of evidence. (n)

RULE 13 TRIAL BY COMMISSIONER

SECTION 1. *Appointment of independent Certified Public Accountant (CPA).*—A party desiring to present voluminous documents in evidence before the Court may secure the services of an independent

Certified Public Accountant (CPA) at its own expense. The Court shall commission the latter as an officer of the Court solely for the purpose of performing such audit functions as the Court may direct. (n)

SEC. 2. *Duties of independent CPA.*—The independent CPA shall perform audit functions in accordance with the generally accepted accounting principles, rules and regulations, which shall include:

- (a) Examination and verification of receipts, invoices, vouchers and other long accounts;
- (b) Reproduction of, and comparison of such reproduction with, and certification that the same are faithful copies of original documents, and pre-marking of documentary exhibits consisting of voluminous documents;
- (c) Preparation of schedules or summaries containing a chronological listing of the numbers, dates and amounts covered by receipts or invoices or other relevant documents and the amount(s) of taxes paid;
- (d) Making findings as to compliance with substantiation requirements under pertinent tax laws, regulations and jurisprudence;
- (e) Submission of a formal report with certification of authenticity and veracity of findings and conclusions in the performance of the audit;
- (f) Testifying on such formal report; and
- (g) Performing such other functions as the Court may direct.

(n)

SEC. 3. *Findings of independent CPA.*—The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification. (n)

SEC. 4. *Other referral to commissioner.*—Whenever practicable and convenient, the Court may apply the procedure prescribed in Rule 32 of the Rules of Court. When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (n)

SEC. 5. *Compensation of Commissioner.* —The Court shall allow the commissioners such reasonable compensation as the circumstances of the case may warrant. (Rules of Court, Rule 32, sec. 13a)

RULE 14

JUDGMENT, ITS ENTRY AND EXECUTION

SECTION. 1. *Rendition of judgment.*—The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its

assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

(2002 Internal Rules of the Court of Appeals, Rule VI, secs. 9 and 10a; and Rules of Court, Rule 51, sec. 2a)

SEC. 2. *Form of decision.*—Every decision or final resolution of the Court shall be in writing, stating clearly and distinctly the findings of fact and the conclusions of law on which it is based, and signed by the justices concurring therein. Such findings and conclusions shall be contained in the decision or final resolution itself. However, in appealed cases, the Court may adopt by reference the findings and conclusions set forth in the decision, order or resolution appealed from.

Every decision of the Court shall be accompanied by a certification signed by the presiding justice or acting presiding justice, chairman or most

senior member as acting chairman of the Court *en banc* or in Division in the following form:

“Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.”

(Rules of Court, Rule 51, sec 5a.; and 2002 Internal Rules of the Court of Appeals, Rule VI, sec. 11a)

SEC. 3. *Amended decision.*—Any action modifying or reversing a decision of the Court *en banc* or in Division shall be denominated as Amended Decision. *(2002 Internal Rules of the Court of Appeals, Rule VI, sec. 12a)*

SEC. 4. *Resolution.*—Any disposition of the Court *en banc* or in Divisions other than on the merits shall be embodied in a Resolution.

(2002 Internal Rules of the Court of Appeals, Rule VI, sec. 12a)

SEC. 5. *Promulgation and notice of decision and resolution.*—The Clerk of Court or Deputy Clerk of Court shall have the direct responsibility for the promulgation of the decision and resolution of the Court. He shall see to it that the decision and resolution are properly signed by the concurring and dissenting justices and the required certification is duly accomplished.

Promulgation consists of the filing of the decision or resolution with the Clerk of Court or Division Clerk of Court, who shall forthwith annotate the date and time of receipt and attest to it by his signature thereon. He shall serve notice of such decision or resolution upon the parties or their counsel, furnishing them with certified true copies thereof.

(2002 Internal Rules of the Court of Appeals, Rule VI, sec. 13a; and Rules of Court, Rule 51, sec. 9a)

In criminal cases originally filed with and decided by the Court in Division, the chairman shall cause the decision or resolution to be filed with the Division Clerk of Court in a sealed envelope, who shall schedule its promulgation, giving notice to the prosecution, the accused personally or through his bondsman or warden, and counsel requiring their presence at the promulgation.

The promulgation shall consist of the reading by the Division Clerk of Court of the dispositive portion of the decision or resolution in the presence of the accused and a justice of the Division that rendered the same. If the accused is detained, the warden shall produce him before the Court. However, if he is detained outside Metro Manila, the Court may authorize the executive judge of the Regional Trial Court having territorial jurisdiction over the place of detention to promulgate the decision or resolution at such place.

(Rules of Court, Rule 120, sec. 6a)

SEC. 6. *Entry of judgment and final resolution.*—If no appeal or motion for reconsideration or new trial is filed within the time provided in these Rules, the Clerk of Court shall forthwith enter the judgment or final resolution in the book of judgment. The date when the judgment or final resolution becomes executory shall be deemed the date of its entry. The entry shall contain the dispositive part of the judgment or final resolution and shall be signed by the Clerk of Court, with a certification that such

judgment or resolution has become final and executory. (*Rules of Court, Rule 51, sec. 10a*)

SEC. 7. *Execution of judgment.*—Upon the expiration of the period to appeal from a judgment or order that disposes of the action or proceeding and no appeal has been duly perfected, execution shall issue as a matter of right, on motion.

If an appeal has been duly perfected and finally resolved, execution may be forthwith applied for in the court of origin, on motion of the judgment obligee, submitting therewith a certified true copy of the judgment or final order sought to be enforced and of its entry, with notice to the adverse party.

(*Rules of Court, Rule 39, sec. 1a*)

RULE 15

MOTION FOR RECONSIDERATION OR NEW TRIAL

SECTION 1. *Who may and when to file motion.*—Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question. (*RCTA, Rule 13, sec. 1a*)

SEC. 2. *Opposition.*—The adverse party may file an opposition to the motion for reconsideration or new trial within ten days after his receipt of a copy of the motion for reconsideration or new trial of a decision, resolution or order of the Court. (*RCTA, Rule 13, sec. 2a*)

SEC. 3. *Hearing of the motion.*—The motion for reconsideration or new trial, as well as the opposition thereto, shall embody all supporting arguments and the movant shall set the same for hearing on the next available motion day. Upon the expiration of the period set forth in the next preceding section, without any opposition having been filed by the other party, the motion for reconsideration or new trial shall be considered submitted for resolution, unless the Court deems it necessary to hear the parties on oral argument, in which case the Court shall issue the proper order. (*RCTA, Rule 13, sec. 3a*)

SEC. 4. *Effect of filing the motion.*—The filing of a motion for reconsideration or new trial shall suspend the running of the period within which an appeal may be perfected. (*RCTA, Rule 13, sec. 4a*)

SEC. 5. *Grounds of motion for new trial.*—A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

- (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
- (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

(Rules of Court, Rule 37, sec. 1a)

SEC. 6. *Contents of motion for reconsideration or new trial and notice.*—The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

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

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma*, which shall not toll the reglementary period for appeal.

(Rules of Court, Rule 37, sec. 2a)

SEC. 7. *No second motion for reconsideration or for new trial.*—No party shall be allowed to file a second motion for reconsideration or for new trial of a decision, final resolution or order. *(Rules of Court, Rule 52, sec. 2a)*

SEC. 8. *Ruling.*—The Court shall resolve the motion for reconsideration or new trial within three months from the time it is deemed submitted for resolution. (*Rules of Court, Rule 52, sec. 3a*)

RULE 16 APPEAL

SECTION 1. *Appeal to Supreme Court by petition for review on certiorari.*—A party adversely affected by a decision or ruling of the Court *en banc* may appeal therefrom by filing with the Supreme Court a verified petition for review on certiorari within fifteen days from receipt of a copy of the decision or resolution, as provided in Rule 45 of the Rules of Court. If such party has filed a motion for reconsideration or for new trial, the period herein fixed shall run from the party's receipt of a copy of the resolution denying the motion for reconsideration or for new trial. (*n*)

SEC. 2. *Effect of appeal.*—The motion for reconsideration or for new trial filed before the Court shall be deemed abandoned if, during its pendency, the movant shall appeal to the Supreme Court pursuant to Section 1 of this Rule. (*2002 Internal Rules of the Court of Appeals, Rule VI, sec. 15a*)

RULE 17 LEGAL FEES AND COSTS

SECTION 1. *Additional fees and costs.*—In addition to the fees prescribed in Rule 141 of the Rules of Court and all amendments thereto, the following legal fees and costs shall be collected:

- (a) For reception of evidence by a Court official pursuant to Section 4, Rule 12 of these Rules five hundred pesos for each day of actual session; and
- (b) For any other services of the Clerk of Court and other Court officials not provided for in Rule 141 of the Rules of Court, two hundred pesos.

(n)

RULE 18 EFFECTIVITY

SECTION 1. *Effectivity of the Revised Rules.*—These Rules shall take effect on the fifteenth day of December 2005 following their publication in a newspaper of general circulation in the Philippines not later than 25 November 2005. (n)