



Republic of the Philippines
Supreme Court
Manila

A.M. No. 19-08-14-SC

THE RULES OF PROCEDURE FOR ADMIRALTY CASES

RESOLUTION

WHEREAS, Section 19(3) of the Judiciary Reorganization Act of 1980 (*Batas Pambansa Bilang* [BP Blg.] 129, as amended) provides that Regional Trial Courts shall have exclusive original jurisdiction over “all actions in admiralty and maritime jurisdiction where the demand or claim exceeds Three Hundred Thousand Pesos (₱300,000.00) or, in Metro Manila, where such demand or claim exceeds Four Hundred Thousand Pesos (₱400,000.00)”;

WHEREAS, there is a need to designate Regional Trial Courts with a special and summary procedure for cases in admiralty and maritime jurisdiction, as defined by BP Blg. 129, as amended;

WHEREAS, there is an urgency to provide parties in cases in admiralty and maritime jurisdiction a fast, reliable and efficient means of recourse to Philippine courts, and to enhance the administration of justice in admiralty and maritime cases through the development of judicial expertise;

WHEREAS, pursuant to Memorandum Order No. 23-2019 dated April 3, 2019, the Special Committee for the Rules of Procedure for Admiralty Cases was created and constituted as follows:

Chairperson: **Hon. Diosdado M. Peralta**
Associate Justice, Supreme Court

Vice Chairperson: **Hon. Alexander G. Gesmundo**
Associate Justice, Supreme Court

Members: **Hon. Jose Midas P. Marquez**
Court Administrator

Hon. Fernanda Lampas Peralta¹
Associate Justice, Court of Appeals

¹ Designated as additional member with the approval of the Chief Justice on July 4, 2019.

Hon. Virgilio V. Macaraig
RTC Branch 37, City of Manila

Hon. Dalisay Chavez-Ohdate
RTC Branch 85, Mandaue City

Atty. Jay L. Batongbacal
*Director, Institute of Maritime Affairs and
Law of the Sea, University of the Philippines
College of Law*

Atty. Charisma I. Nolasco
Representative, Office of the Chief Justice

Resource persons: **Cong. Jesulito A. Manalo**
Representative, ANGKLA Party-list

Ambassador Carlos C. Salinas
*Maritime Ambassador of the International
Organization*

Secretariat: **Atty. Ralph Jerome D. Salvador**
Office of Associate Justice Diosdado M. Peralta

Atty. Camille Sue Mae L. Ting
Office of the Court Administrator

Atty. Noreen B. Bragas
Representative, Office of the Chief Justice

WHEREAS, pursuant to Section 5(5), Article VIII of the 1987 Constitution, the Supreme Court is vested with the power to promulgate rules concerning the pleading, practice, and procedure in all courts;

WHEREAS, pursuant to Section 36 of the Judiciary Reorganization Act of 1980 (BP Blg. 129) and to achieve an expeditious determination of Admiralty cases, there is a need to promulgate the following Rules of Procedure for Admiralty Cases;

NOW, THEREFORE, acting on the recommendation of the Chairperson of the Special Committee for the Rules of Procedure for Admiralty Cases, the Court resolved to **APPROVE** the “*The Rules of Procedure for Admiralty Cases.*”

The Rules of Procedure for Admiralty Cases shall take effect on January 1, 2020 following its publication in the Official Gazette or in two newspapers of national circulation.

September 17, 2019, Manila, Philippines.

LUCAS P. BERSAMIN*
Chief Justice

ANTONIO T. CARPIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO*
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

* Chief Justice Lucas P. Bersamin and Associate Justice Alexander G. Gesmundo were on official business, but participated in the deliberations and left their votes.



Republic of the Philippines
Supreme Court
Manila

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A.M. No. 19-08-14-SC

THE RULES OF PROCEDURE FOR ADMIRALTY CASES

Pursuant to Section 36 of the Judiciary Reorganization Act of 1980 (*Batas Pambansa Bilang 129*) and to achieve an expeditious determination of Admiralty cases, the Court resolved to promulgate the following Rules of Procedure for Admiralty Cases.

PART I
GENERAL PROVISIONS

RULE 1
GENERAL PROVISIONS

Section 1. *Title.* – These Rules shall be known as "The Rules of Procedure for Admiralty Cases."

Section 2. *Objectives.* – The objectives of these Rules are:

- (a) To provide Regional Trial Courts with a special and summary procedure for Admiralty cases as defined by the Judiciary Reorganization Act of 1980, as amended;
- (b) To provide parties in Admiralty cases a fast, reliable, and efficient means of recourse to Philippine courts; and
- (c) To enhance the administration of justice in Admiralty cases in the Philippines through the development of judicial expertise.

Section 3. *Definition of Terms.* – As used in these Rules, the following definition of terms shall apply:

- (a) Action *in rem* – an Admiralty action *in rem*, directed against a specific ship itself or its particular cargo or freight to satisfy the claim of the plaintiff out of the *res*.

- i. Writ of Summons in Action *In Rem* (writ) – a written command in the name of the court directed against a person in control or possession of the property, or against a ship’s Registry, for the latter to act or abstain from acting in some way (See *Annex “A”*).
- (b) Action *in personam* – an Admiralty action *in personam*, directed against a natural or juridical person who is the owner, charterer, or other person in possession and/or control of a ship or cargo.
 - i. Summons in Action *In Personam* (summons) - a written command in the name of the court directed to defendant to file an answer.
- (c) Cargo – the load or lading of ship; the goods or merchandise on board a ship to be carried to a certain port.
- (d) Charter party – a marine contract by which an entire ship or some principal part thereof is let by the owner to another person for a specified time or use; this includes “bareboat” or “demise” charters, “time” charters, and “voyage” or “trip” charters.
- (e) Freight – the price or compensation paid for the transportation of goods by a carrier, at sea, from port to port.
- (f) Limitation action – an action by shipowners or other persons under any written law for the limitation of the amount of their liability in connection with a ship or other property.
- (g) Limitation fund – a guarantee or deposit made by shipowners to meet any damage claim to facilitate the statutory limit of their liability for the negligence of their captains, officers, or such other persons operating the ship.
- (h) Marine casualty – any damage against third persons which may arise from the conduct of the captain in the care of the goods which the vessel carries, as well as damages caused to persons or to cargo due to a collision through the fault, negligence, or lack of skill of the captain, sailing mate, or any other member of the complement.
- (i) Maritime lien – legal claim or charge on property, either real or personal, as a collateral or security for the payment of some debt or obligation. It attaches to a property by operation of law and once attached, it follows the property until it is discharged.
- (j) Protection and Indemnity Club – A non-governmental, non-profit mutual or cooperative association of marine insurance providers to members that consist of shipowners, operators, charterers and seafarers of the member companies.
- (k) Relevant person – the person who would be liable on the claim in an action *in personam*.

- (l) Ship – includes any description of a vessel used in navigation including hydrofoil boats, air-cushion vehicles, submersibles, floating crafts, and fixed or floating platforms.
- (m) Vessel – every description of watercraft or other artificial contrivances used, or capable of being used, as a means of transportation on water, whether under its own means or not; it is generally a more comprehensive term than “ship.”
- (n) Warrant of Arrest of a Vessel, Cargo, or Freight – court process by which a ship, cargo, or freight is detained or restricted to secure a maritime claim (*See Annex “B”*).

Section 4. *Applicability.* — These Rules shall govern the procedure in civil actions before the designated Admiralty courts involving claims and cases in Admiralty filed on the basis of shipping and other related laws, rules and regulations, such as, but not limited to, the following:

- (a) The Spanish Code of Commerce of 1888, Book III on Maritime Commerce;
- (b) An Act on Salvage and Rendering of Assistance to Vessels and Cargoes (Act No. 2616 [1916]);
- (c) Carriage of Goods by Sea Act (Commonwealth Act No. 65 [1936]);
- (d) New Civil Code of the Philippines, Title VIII, Chapter 3, Section 3 on Common Carriers (Republic Act No. 386 [1949]);
- (e) Maritime Industry Decree of 1974 (Presidential Decree No. 474 [1974]);
- (f) Insurance Code, Chapter II, Title I on Marine Insurance (Presidential Decree No. 612 [1974], as amended);
- (g) Revised Charter of the Philippine Ports Authority (Presidential Decree No. 857 [1975]);
- (h) Marine Pollution Decree as to Ships (Presidential Decree No. 979 [1976]);
- (i) Ship Mortgage Decree of 1978 (Presidential Decree No. 1521 [1978]);
- (j) Philippine Overseas Shipping Development Act (Republic Act No. 7471 [1992]);
- (k) Domestic Shipping Development Act of 2004 (Republic Act No. 9295 [2004]);
- (l) Oil Spill Compensation Act of 2007 (Republic Act No. 9483 [2007]);
- (m) Philippine Coast Guard Law of 2009 (Republic Act No. 9993 [2009]);
- (n) Single Maritime Administration for STCW (Republic Act No. 10635 [2014]);
- (o) Liberalization of Cabotage Law (Republic Act No. 10668 [2015]); and
- (p) Naval Architecture and Marine Engineering Law (Republic Act No. 10698 [2015]).

Likewise, these Rules shall be interpreted and implemented consistently with the international standards and norms used in the international shipping industry, much of the substance of which may be found in the following international conventions and instruments, including their respective annexes and protocols:

- (a) 1982 United Nations Convention on the Law of the Sea (UNCLOS);
- (b) 1974 International Convention on the Safety of Life at Sea (SOLAS), and its applicable annexes and protocols;
- (c) 1966 International Convention on Load Lines (LOADLINES);
- (d) 1969 International Convention on Tonnage Measurement of Ships (TONNAGE);
- (e) 1978/1995 International Convention on Standards of Training, Certification, and Watchkeeping (STCW);
- (f) 1973/1978 International Convention for the Prevention of Pollution from Ships (MARPOL);
- (g) 1952 International Convention relating to the Arrest of Sea-going Ships (ARREST);
- (h) 1972 International Convention for Preventing Collisions at Sea (COLREGS); and
- (i) Other conventions of the International Maritime Organization to which the Philippines is a party or signatory.

Section 5. *Admiralty Cases.* – In the implementation or enforcement of the above laws, rules and regulations, the Admiralty jurisdiction of the court refers to the jurisdiction to hear and determine any of the following maritime claims:

- (a) Loss or damage caused by the operation of the ship;
- (b) Loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;
- (c) Salvage operations or any salvage agreement, including, if applicable, special compensation relating to salvage operations in respect of a ship which, by itself or its cargo, has threatened damage to the environment;
- (d) Damage or threat of damage caused by the ship to the environment, coastline or related interests, including the carriage of waste, garbage, or pollution as cargo into the Philippines; measures taken to prevent, minimize, or remove such damage; compensation for such damage; costs of reasonable measures of reinstatement of the environment actually undertaken or to be undertaken; loss incurred or likely to be incurred by third parties in connection with such damage; and damage, costs, or loss of a similar nature to those identified in this subparagraph (d);
- (e) Costs or expenses relating to the raising, removal, recovery, destruction or rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship, and costs or expenses relating to the preservation of an abandoned ship and maintenance of its crew;
- (f) Any agreement relating to the use of a ship, including bareboat charter, charter by demise, time charter, voyage charter or contract of affreightment, and maritime contract of carriage, whether of goods or people, including bills of lading;
- (g) General average;
- (h) Towage;
- (i) Pilotage;

- (j) Goods, materials, provisions, bunkers, equipment (including containers) supplied or services rendered to the ship for its operation, management, preservation, or maintenance;
- (k) Construction, reconstruction, repair, converting or equipping of the ship;
- (l) Port, canal, dock, harbor and other waterway dues and charges;
- (m) Wages and other sums due to the master, officers and other members of the ship's complement who are not Filipino citizens, in respect of their employment on the ship, including costs of repatriation and social insurance contributions payable on their behalf, initiated while the vessel is within Philippine jurisdiction;
- (n) Disbursements incurred on behalf of the ship or its owners;
- (o) Insurance premiums (including mutual insurance calls) in respect of the ship, payable by or on behalf of the shipowner or demise charterer;
- (p) Any commissions, brokerages or agency fees payable in respect of the ship by or on behalf of the shipowner or demise charterer;
- (q) Any dispute as to ownership or possession of the ship;
- (r) Any dispute between co-owners of the ship as to the employment or earnings of the ship;
- (s) A mortgage or a "hypothèque" or a charge of the same nature on the ship;
- (t) Any dispute arising out of a contract for the sale of the ship; and
- (u) Enforcement of foreign judgments and arbitral awards in relation to claims, or judgments and awards rendered under the Admiralty and maritime jurisdiction of a foreign court or arbitral tribunal, and subject to the procedures under Rule 39, Section 48 of the Rules of Court and the requirements of Republic Act No. 9285.

Provided, that such action, demand or claim shall be filed with the designated first- or second-level Admiralty courts, as the case may be, in accordance with their jurisdictional thresholds, as may be determined by law. In case the action, demand or claim is within the jurisdictional threshold of first-level courts, the case shall be filed before the first-level court and the Rules of Procedure for Admiralty Cases shall apply.

Section 6. *Actions in rem*. – Actions *in rem* may be filed, even if the ship may be located outside the Philippines, in the following cases:

- (a) Any claim to the possession or ownership of a ship or any share therein;
- (b) Any question arising between the co-owners of a ship as to possession, employment, or earnings of that ship, including the settlement of any account outstanding and unsettled between the parties in relation to the ship;
- (c) Any claim in respect of a mortgage of or charge on a ship or any share therein;
- (d) Any claim for the attachment, forfeiture or condemnation of a ship, or for the restoration of a ship;
- (e) Any claim on the basis of a maritime lien or other charge on any ship, or other property for the amount claimed; and
- (f) Enforcement of an arbitral award or foreign judgment against a ship.

Section 7. *Actions in personam.* – At the plaintiff’s option, an action *in personam* may also be filed where the defendant has his or her habitual residence or place of business in the Philippines, in the following instances:

- (a) Any claim for damage done/inflicted by a ship;
- (b) Any claim for damage received/sustained by a ship;
- (c) Any claim for loss of life or personal injury sustained as a result of:
 - i. any defect in a ship or in her equipment; and
 - ii. the wrongful acts or omissions of the owners, charterers, or persons in possession or control of a ship, or the master or crew thereof, or any other person for whose wrongful acts or omissions the owners, charterers, or persons in possession or control of a ship are responsible, provided, that said acts or omissions are conducted in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage, or disembarkation of persons on, in or from the ship;
- (d) Any claim for loss or damage to goods carried in a ship;
- (e) Any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
- (f) Any claim in the nature of salvage of a ship, including claims for services rendered in saving life from a ship or any aircraft or in preserving cargo, apparel or wreck as are authorized to be made in connection with a ship or aircraft;
- (g) Any claim in the nature of towage in respect of a ship;
- (h) Any claim in the nature of pilotage in respect of a ship;
- (i) Any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
- (j) Any claim in respect of the construction, repair or equipment of a ship of dock charges or dues;
- (k) Any claim by a master, shipper, charterer, or agent in respect of disbursements made on account of a ship;
- (l) Any claim arising out of an act which is or is claimed to be a general average act;
- (m) Any claim arising out of bottomry; and
- (n) Any claim arising out of a charter party of whatever kind.

PART II CIVIL PROCEDURE

RULE 2 PLEADINGS AND PARTIES

Section 1. *Pleadings and motions allowed.* – The pleadings and motions that may be filed are the complaint, third-party complaint, answer which may include compulsory counterclaims and cross-claims, answer to counterclaims and cross-claims, motion for intervention, and motion to avail of discovery procedures.

Section 2. *Prohibited pleadings or motions.* – The following pleadings or motions shall not be allowed:

- (a) Motion to dismiss the complaint;
- (b) Motion for bill of particulars;
- (c) Motion for extension of time to file pleadings, affidavits or any other paper;
- (d) Motion to declare the defendant in default;
- (e) Dilatory motion for postponement;
- (f) Motion for new trial;
- (g) Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court; and
- (h) Petition for relief from judgment.

Section 3. *Verified complaint.* – The verified complaint shall state or contain:

- (a) A statement that it is a case in Admiralty jurisdiction;
- (b) The names, addresses, and other relevant personal or juridical circumstances of the parties;
- (c) All facts material and relevant to plaintiff's cause or causes of action;
- (d) The law, rule, or regulation relied upon, violated, or sought to be enforced;
- (e) Specification of all evidence supporting the cause of action, such as affidavits of witnesses, authenticated documentary evidence which must be attached to the complaint, and object evidence.

The affidavits shall be in question and answer form and shall comply with the rules on judicial affidavits. All other supporting documents and evidence will comply with the rules on admissibility of evidence. Official documents from a foreign jurisdiction shall be considered admissible when duly authenticated in accordance with The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, otherwise known as the Apostille Convention.

All parties are required to disclose and include all relevant documentary evidence, even if such may appear to contain admissions against interest;

- (f) The reliefs prayed for. The verified complaint may also include a prayer for the immediate issuance *ex parte* of a Warrant of Arrest of a Vessel (WAVE), Cargo, or Freight. In such cases, it shall also comply with the requirements under Rule 6 herein; and
- (g) A certification against forum shopping.

Section 4. *Who may file.* – Any real party in interest, including the government and juridical entities authorized by law, may file a civil action in Admiralty jurisdiction.

Section 5. *Against whom filed.* – A complaint in Admiralty jurisdiction may be filed against a ship, or against specific cargo or freight, or against the owners, charterers, other persons in possession or control of a ship and/or cargo, or other relevant persons.

Section 6. *Service of the complaint upon the Ship's Register or consulate.* – Upon the filing of the complaint, the plaintiff is required to furnish a copy thereof to the Ship's Register with which the ship is registered or, in the absence thereof, the

consulate of the ship's flag. Proof of service upon the Ship's Register or appropriate consulate shall be attached to the complaint.

Section 7. *Manner of Service.* – In the case of ships of Philippine registry, service shall be made by sending a copy of the complaint and all its attachments personally or by personal courier upon the duly-designated receiving officer of the Maritime Industry Authority. In the case of ships flying the flag of a foreign country, service shall be made by sending a copy of the complaint and all its attachments with the consulate of the ship's flag State; provided, that if the foreign Ship's Registry allows service through electronic means of court processes, legal notices, pleadings and documents, the party may make use of such means subject to proof of such service.

Section 8. *Assignment by raffle.* – The complaint shall be referred to the Admiralty court immediately upon filing if there is only one (1) designated branch in a multiple-*sala* court. If there are two (2) or more designated branches, the Clerk of Court shall immediately cause an electronic or special raffle, as the case may be, among the Admiralty courts on the same day the complaint is filed.

Section 9. *Duty of the court.* – Upon referral of the complaint by the executive judge, the Admiralty court to which it was referred or raffled, as the case may be, may *motu proprio* dismiss the case outright on any of the grounds apparent therefrom for the dismissal of a civil action. If no ground for dismissal is found, the Admiralty court shall forthwith issue the writ or summons which shall state that the Rules of Procedure for Admiralty Cases shall apply.

Section 10. *Service of writs, summons, orders and other court processes.* – Writs, summons, orders and other court processes may be served by the sheriff, his deputy or other proper officers of the court.

The writs or summons shall be served immediately on the defendant upon order of the court, together with a copy of an order informing all parties that they have ten (10) calendar days within which to appear in court and file an answer. Writs or summons shall be served in accordance with the Rules of Court, except as provided under Section 11 hereof.

Section 11. *Service of writs and summons.* – (a) In an action *in rem*, a Writ of Summons in Action *In Rem* must be served on the ship against which the action is brought, except if the ship has been sold by the Sheriff upon lawful order of a court, in which case, a sealed copy of the writ must be filed with the Ship's Registry and the same shall be deemed to have been served on the day on which the copy was filed. Such service shall be effected against a ship, cargo, or freight as follows:

- i. by serving the same personally upon the ship's captain or master on board the ship while it is within the jurisdiction of the Philippines;
- ii. by affixing a copy of the writ for a short time on any mast of the ship or on the outside of any suitable part of the vessel's superstructure, visible to all who may board or enter the vessel;

- iii. by affixing a copy of the writ in a sheltered, conspicuous part of the vessel visible to the person in actual possession and control thereof, such as the windows in front of the wheelhouse or bridge of the vessel; and
- iv. in the case of cargo or freight in the custody of a person, by leaving the writ with such person.

(b) In an action *in personam*, summons shall be served in accordance with the Rules of Court insofar as they are not incompatible with these Rules.

In case the plaintiff files an action both *in rem* and *in personam*, that is, against the vessel and its owner, charterer, or other person in possession and control thereof, both the Writ of Summons in Action *in Rem* and ordinary summons shall be issued and served separately.

Section 12. *Responsive Pleadings*. – Within ten (10) calendar days from receipt of the writ or summons, the defendant shall file a verified answer to the complaint, third-party complaint, counterclaim, cross-claim, or intervention, as the case may be, and serve a copy thereof upon the plaintiff. Affirmative and special defenses not pleaded shall be deemed waived, except for lack of jurisdiction.

Section 13. *Effect of failure to answer*. – If the defendant fails to file an answer to the complaint within the period provided, the court *motu proprio*, or on motion of the plaintiff as may be warranted by the facts alleged in the complaint and limited to the reliefs prayed for, shall declare the defendant in default and render judgment based on the complaint and the evidence attached thereto.

RULE 3 PRE-TRIAL

Section 1. *Notice of Pre-Trial*. – Within two (2) calendar days from the filing of the last responsive pleading, the Branch Clerk of Court shall issue a notice of pre-trial to be held not later than twenty (20) calendar days from the filing of the last pleading.

Section 2. *Briefs*. – At least three (3) calendar days before the pre-trial, the parties shall submit pre-trial briefs containing the following:

- (a) Statement of willingness to enter into an amicable settlement indicating the desired terms thereof;
- (b) Summary of admitted facts and proposed stipulations of facts;
- (c) Legal or factual issues to be tried and resolved. For each factual issue, the parties shall state all evidence to support their positions thereon. For each legal issue, parties shall state the applicable law and jurisprudence supporting their respective positions thereon;
- (d) Affidavits of witnesses, documentary evidence, and, if necessary, object evidence in support of the answers and replies, which shall be attached to the brief; and
- (e) Number and names of witnesses, and the substance of their affidavits.

Failure to comply with the required contents of a pre-trial brief may be a ground for contempt. Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Section 3. *Pre-Trial*. – Not later than twenty (20) calendar days after the last pleading has been filed, pre-trial shall be held. The judge shall put the parties and their counsels under oath.

A record of the pre-trial shall be issued by the court immediately upon termination thereof, stating:

- (a) Whether the parties have arrived at an amicable settlement;
- (b) Stipulations or admissions of the parties, including documents admitted without need for further authentication;
- (c) Statement of specific facts which remain controverted, if any;
- (d) Schedule for examination of witnesses; and
- (e) Such other matters as may facilitate the disposition of the case.

All judicial affidavits and documentary evidence shall be examined by the parties for accuracy and authenticity, and referred to and marked as described in the complaint and answer on record with the court and considered to be offered in evidence to prove the claims stated therein. The court shall not admit as evidence, for any purpose, any judicial affidavits or documents which have not been examined and marked during the pre-trial.

Unless the parties have reached an amicable settlement in the meantime, failure of either of the parties to appear in the pre-trial shall be a cause of dismissal of their respective claims or counter-claims, and the appearing party shall be entitled to judgment on his or her claims as warranted by the evidence submitted, but in no case greater than that stated in the complaint or answer. All cross-claims shall be dismissed.

Should the parties reach an amicable settlement, a copy of the agreement setting forth the terms of such settlement shall be submitted to the court at the pre-trial, and the court shall render judgment based on the terms and conditions thereof.

The judgment of the court upon the pre-trial, on account of non-appearance or amicable settlement, shall be final and binding upon the parties and constitute *res judicata* upon their respective claims and counter-claims.

Section 4. *Judgment on the pleadings or summary judgment*. – After the pre-trial, if there are no more controverted facts or genuine issues pending, the court shall, without prejudice to a party moving for judgment on the pleadings under Rule 34 of the Rules of Court or summary judgment under Rule 35, *motu proprio* submit the case for judgment on the pleadings or summary judgment without need of position papers or memoranda. The ruling of the court to submit the case for summary judgment or judgment on the pleadings shall not be subject to appeal or certiorari. In such cases, judgment shall be rendered within fifteen (15) calendar days from termination of the pre-trial.

Section 5. *Referral to mediation.* – If there are still facts to be controverted or issues to be resolved, the case may be immediately referred to mediation, which proceeding shall not exceed a period of thirty (30) calendar days, without further extension.

In case of an amicable settlement, the compromise agreement shall be immediately submitted to the court, which shall render a decision based on the compromise agreement within fifteen (15) calendar days.

If mediation fails, the assigned mediator shall immediately submit his report thereon, and the court shall conduct trial without referral to Judicial Dispute Resolution.

RULE 4 TRIAL

Section 1. *Hearing and cross-examination of witnesses.* – Within ten (10) calendar days from date of pre-trial, if the case is not referred to mediation, or within thirty (30) calendar days from date of pre-trial if the case is referred to mediation and the same fails, the court shall hold trial for purposes of cross-examination of the parties' witnesses based on their judicial affidavits and documents annexed thereto submitted with the complaint or answer. No additional affidavits or evidence which were not previously agreed upon in the pre-trial shall be allowed.

Section 2. *Continuous trial.* – The court shall conduct continuous trial which shall not exceed two (2) months from the date of the initial trial. The two-month period may be extended by the court in cases involving complex factual and legal issues which necessarily require additional time for their determination, but in no case shall the extension exceed one (1) month.

Section 3. *Examination of witnesses.* – The court shall strictly adhere to the rule that a witness has to be fully examined in one (1) day, subject to the court's discretion of extending the examination for justifiable reason. After the presentation of the last witness, only oral offer of evidence shall be allowed, and the opposing party shall immediately and orally interpose his or her objections. The judge shall forthwith rule on the offer of evidence in open court.

The parties may agree that witnesses may be examined *via* videoconferencing in accordance with existing rules of the Supreme Court.

Section 4. *Submission of case for decision.* – After the last party has rested his or her case, the court shall issue an order submitting the case for decision. The court may, within ten (10) calendar days from submission of the case for decision, require the parties to submit position papers within a non-extendible period of ten (10) calendar days from notice.

Section 5. *Submission of position papers.* – Within a non-extendible period of ten (10) calendar days from submission of the case for decision, the court may require the simultaneous submission, in written and/or electronic form, of the parties'

position papers based on the affidavits and evidence already submitted and on record. Position papers shall state the arguments of fact and law upon which the party seeks a favorable decision and shall substantially follow the form of a draft decision.

Section 6. *Period to decide.* – Within fifteen (15) calendar days from the expiration of the period for filing of position papers, with or without position papers, the court shall render judgment.

RULE 5 INTERVENTION

Section 1. *Intervenors.* – Where a ship against which an action *in rem* is brought is under arrest, a person who has a legal interest in the ship, cargo, or freight, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of the ship, but who is not a party to the action may, with leave of court, file a motion to intervene in the action at any time before submission of the case for decision by the court. A copy of the pleading in intervention shall be attached to the Motion for Intervention with leave of court.

A complaint-in-intervention must be supported by judicial affidavits and other supporting evidence, showing the interest of the intervenor in the ship within the court's custody. The court may consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

The time for filing responsive pleadings in intervention shall conform with the time limits in these Rules.

Section 2. *Appearance.* – A person granted leave to intervene must enter an appearance in the action within the period specified by the court, but in no case after the case has been submitted for decision.

PART III ARREST OF A VESSEL, CARGO, OR FREIGHT

RULE 6 WARRANT OF ARREST OF VESSEL, CARGO OR FREIGHT

Section 1. *When available, and scope.* – In an action *in rem* in Admiralty jurisdiction as defined in Part 1, Rule 1, Section 6 of these Rules, the plaintiff or defendant, as the case may be, may upon commencement of an action *in rem*, apply for a Warrant of Arrest of Vessel, Cargo, or Freight applicable against the vessel or ship, cargo, or freight subject of the action or counterclaim. The Warrant of Arrest may be issued together with the Writ of Summons in Action *In Rem*.

The Warrant of Arrest directs the Sheriff or a duly authorized person to arrest a specific vessel or ship, cargo, or freight while it is within the jurisdiction of a Philippine port, and detain the same within the port limits until further orders from the court. The same shall be valid for twelve (12) months from the date of its issuance.

Section 2. *Requirements.* – A Warrant of Arrest shall not be issued unless the party applying for the warrant or his or her duly authorized agent has filed an affidavit stating the following:

- (a) In actions *in rem*:
 - i. The name, address and occupation of the applicant for the Warrant of Arrest of Vessel, Cargo, or Freight;
 - ii. The nature of the claim or counterclaim which has not been satisfied in respect of which the warrant is required, and if it arises in connection with a ship, the name of the ship; and
 - iii. The nature of the property to be arrested and, if the property is a ship, the name of the ship and the port of her registry;
- (b) In actions both *in rem* and *in personam*:
 - i. The name of the person who would be liable on the claim in an action *in personam*, should the action be both *in rem* and *in personam* (the “relevant person”);
 - ii. That the relevant person was the owner or charterer of, or person in possession or control of the ship, cargo, or freight in connection with which the claim arose;
 - iii. That at the time of the issuance of the writ, the relevant person was either the beneficial owner of all the shares in the ship, cargo, or freight in respect of which the warrant is required, or the charterer of a ship under a charter by demise; and
 - iv. In the case of a claim for possession of a ship or for wages, the nationality of the ship in respect of which the warrant is required, and that the copy of the writ and complaint have been sent to the Registry or consulate should the ship be of foreign nationality.

Section 3. *Issuance of a Warrant of Arrest of Vessel, Cargo, or Freight.* – Upon the commencement of the action, the plaintiff or defendant, as the case may be, may apply for a Warrant of Arrest for the arrest of the ship, cargo, or freight against which the action or any counterclaim in the action may be brought. No Warrant of Arrest shall be granted unless the arresting party has given a bond or security, including a corporate surety from a surety company accredited by the Supreme Court, executed in favor of the Admiralty court in the amount of thirty percent (30%) of the claim, but in no case less than five million pesos (₱5,000,000.00), conditioned that the arresting party will pay all the costs which may be adjudged to the adverse party and all damages which he or she may sustain by reason of the arrest, if the court shall finally adjudge that the applicant was not entitled thereto.

A Warrant of Arrest shall not be issued without prior notice to the owner, charterer, master, or person in actual possession and control of the property at the

time of application, and after due hearing, However, a plaintiff may request the issuance of a Warrant of Arrest of Vessel, Cargo or Freight *ex parte* in cases of extreme urgency where the complainant may suffer irreparable injury or gross inconvenience on account of the mobility or transportability of the ship, or the cargo, or the person in custody of the freight, against which the action *in rem* is directed. In such case, the court may issue *ex parte* a warrant which shall immediately be executed pursuant to Section 5 hereof.

Section 4. *Payment of port fees and charges.* – The arresting party shall, in addition, pay all port fees, charges and expenses incurred in the preservation and maintenance of the ship or cargo during its arrest, until its release or sale.

Section 5. *Execution of a Warrant of Arrest of Vessel, Cargo, or Freight.* – A Warrant of Arrest of Vessel, Cargo, or Freight must be served on the ship, cargo, or freight against which it is issued. Service of a Warrant of Arrest shall be effected in the same manner as service of a Writ of Summons in Action *In Rem* specified in Rule 2, Section 11(a) hereof. The warrant must also be served upon the master of the vessel or person in custody of the cargo or freight. The warrant of arrest shall likewise be served on the Ship Registry or consulate of the flag State of the ship, and annotated on the ship's certificate of registration.

While a ship is under arrest, its cargo may still be discharged.

A court-designated Sheriff serving a warrant of arrest may summon officers from the Philippine Coast Guard, Bureau of Customs, Philippine Ports Authority, or pertinent port authority, or any other law enforcement agency for assistance in enforcing the warrant. Officers so summoned shall be considered as duly deputized and shall assist in effecting the arrest when they can render such assistance without detriment to their safety. The Sheriff shall make a return on the Warrant of Arrest of Vessel, Cargo or Freight in accordance with the Rules of Court.

Section 6. *Applications with respect to property under arrest.* – The Sheriff may at any time request the court to provide directions with respect to the property under arrest, and shall give notice thereof to any or all of the following persons who, in relation to the property, have:

- (a) Caused a warrant for the arrest of the property to be executed by the Sheriff;
- (b) Entered appearance in any action in which the property is under arrest; or
- (c) Intervened in any action in which the property is under arrest.

Section 7. *Bail bond.* – A bail bond or security, including a corporate surety from a surety company accredited by the Supreme Court, in sufficient amount to answer for the arresting party's claims, may be given on behalf of a party to an action *in rem* to secure the release of the ship, cargo, or freight from arrest. The bail bond shall be filed with the court and notice thereon served on the adverse party. Upon receipt of the bail bond and finding that it is in good order, the court shall forthwith order the lifting of the warrant of arrest.

In case a warrant of arrest is issued against the cargo or freight only, the amount of the bail bond shall be based on the value of such cargo or freight subject of the arresting party's claim.

Section 8. *Report on Arrest of Vessels, Cargo, or Freight.* – The judge shall report to the Supreme Court, through the Office of the Court Administrator, every action taken on all Warrants of Arrest of Vessel, Cargo, or Freight, within fifteen (15) calendar days from the action taken.

RULE 7 SALE OF PROPERTY IN CUSTODIA LEGIS

Section 1. *Satisfaction of final judgment in actions in rem.* – After finality of judgment, a ship or cargo which has been subject of a warrant of arrest, and has remained *in custodia legis* due to failure to file the appropriate bail bond, may be sold at public auction as directed by the court to satisfy the maritime claim upon motion of the prevailing party.

Section 2. *Appointment of Appraisers.* – Upon motion of the prevailing party for the sale of the arrested ship or cargo, the court may, within five (5) calendar days, cause the appointment of one or more appraiser/s who shall assign a value of the ship or cargo, and assist the Sheriff in the sale of the property.

Appraisers shall be appointed taking into account their specialized knowledge and expertise in the classification and valuation of ships, and familiarity with ships and ship management or operations.

Appraisers shall be entitled to compensation in the same manner as Sheriffs of the court, out of the proceeds of the sale.

Section 3. *Order of Priority.* – In case a judgment is rendered and there are numerous prevailing parties in an action *in rem*, they may file a motion before the court to determine the priority of the claims against the proceeds of the sale of the ship.

PART IV SPECIAL PROCEEDINGS

RULE 8 LIMITATION ACTION

Section 1. *Purpose.* – In a limitation action, the plaintiff, who may be a ship-owner, charterer, or other person in control or possession of a ship, seeks to limit his or her liability to the full amount of a limitation fund constituted for the purpose of satisfying claims in respect of a marine casualty involving the ship, which claims have not been otherwise settled by marine insurance or other means.

Section 2. *When available.* – A plaintiff may initiate a limitation action only in the following cases:

- (a) collisions;
- (b) injuries to a third party; and
- (c) acts of the captain or master of a ship.

Provided, that the plaintiff abandons the vessel with all her appurtenances and equipment and freightage earned, or part thereof belonging to such plaintiff, during the last voyage.

Limitation action is not available in the following cases:

- (a) injury or death to a passenger is due either to the fault of the shipowner, charterer, or other person in possession or control of the vessel;
- (b) injury or death of a passenger due to the concurring fault of said person and the captain or master of the vessel;
- (c) the vessel is insured and the injury or damage to persons or property, or death of a passenger, is covered by a separate insurance; and
- (d) workmen's compensation claims.

Section 3. *How initiated.* – The plaintiff may file a limitation action by a verified complaint, impleading any and all known defendants any time after a marine casualty that causes damage, injury, or death, and subsequent abandonment of the vessel, by notarial act filed with the Ship Registry, or total loss thereof in which case abandonment by notarial act is no longer necessary.

The complaint must be supported by judicial affidavit/s stating the plaintiff's cause of action, the names of the known defendants, and the addresses of each of those persons if known to the plaintiff. The complaint shall likewise be directed against any and all defendants whose names and personal circumstances may be unknown but are described generally and identifiable as a certain class, such as ship chandlers, cargo-owners, or passengers of a vessel at a specific time and place. The plaintiff shall disclose any and all contracts with third parties which may form the basis of liability relating to the ship involved in the action.

Separate summons shall be directly sent to the defendants specifically named in the complaint, at their residential or business address/es known to the plaintiff.

Notice of and summons to the limitation action against all other defendants, whether or not named in the complaint, shall be published in at least two (2) newspapers of general circulation, stating the title and purpose of the action, and the court where the same is pending.

The summons shall state a time and place for appearance of the defendants before the court at the hearing, which in no case shall be less than one (1) month from the date of filing of the complaint. No pre-trial is necessary, given the nature of the action.

Section 4. *Defendants.* – Upon receipt of notice and summons and at any time prior to the hearing, a defendant may enter an appearance as such by written notice of appearance, accompanied by a judicial affidavit setting forth the basis and substance of the claim as defendant.

Where the appearing defendant was not previously named specifically by the plaintiff and was apprised of the complaint only through published notice and summons, the defendant shall further state that he or she is submitting to the jurisdiction of the court, and provide the necessary address/es for purposes of service of all subsequent orders and processes of the court.

Section 5. *Hearing.* – At the hearing, the plaintiff shall submit a judicial affidavit setting forth his or her liability, the relevant facts and legal basis of his or her claim to a limitation thereof, the total amount of the limitation fund to be constituted and payments offered to be allocated to those whom the plaintiff admits to be liable.

Appearing defendants shall likewise submit their judicial affidavits setting forth the substance and basis of their respective claims. They may dispute only the plaintiff's right to limit his or her liability; in no case may the defendant dispute the total amount of the limitation fund. If it appears that the defendant does not have sufficient information to enable the court to decide whether or not to dispute the plaintiff's right to limit his or her liability, the court shall give such directions as may be appropriate to enable the defendant to obtain the necessary information and adjourn the hearing for that purpose.

Non-appearance at the hearing despite notice, by a defendant specifically named in the complaint and to whom summons had been served, shall be deemed a waiver of the right to dispute the plaintiff's right to limit his or her liability.

After reception of the plaintiffs' and defendants' respective evidence, the court shall conclude the hearing and submit the case for decision within fifteen (15) calendar days. The court shall decide whether or not the plaintiff is entitled to a limitation of liability, whether or not to constitute a limitation fund, and, if so, the terms and conditions for disbursement thereof.

Section 6. *Constitution of the Limitation Fund.* – The plaintiff may, upon order of the court, constitute a limitation fund by making a deposit to the court, or by producing a letter of undertaking from a Protection and Indemnity Club acceptable to the court. The fund may be constituted during the hearing, but not later than thirty (30) calendar days after the conclusion of the hearing.

Failure to constitute a sufficient limitation fund to satisfy claims within the said period shall be deemed a withdrawal of the action and warrants dismissal thereof. No amount shall be paid out of the limitation fund except upon the order of the court.

Section 7. *Order of the court limiting the plaintiff's liability.* – If it appears from the hearing that the plaintiff has the right to his or her limit liability, the court shall, within fifteen (15) calendar days after due consideration of the plaintiffs' and

defendants' claims, issue an order limiting the plaintiff's liability and direct the defendants, and any other persons who may have claims, to file their respective claims against the limitation fund.

The order shall be served upon the plaintiff and the appearing defendants, and shall operate to protect the plaintiff with respect of claims by the appearing defendants, or persons claiming through or under them. The order shall also fix a time and place for the acceptance of claims filed by persons with claims against the plaintiff with respect of the casualty to which the action relates, but who were not properly summoned, or were unknown defendants, and who did not enter an appearance prior to the issuance of the order.

Section 8. *Publication of the Order.* – The court shall order the plaintiff to cause the publication of the order constituting the limitation fund in two (2) newspapers of general circulation, identifying the action, the casualty and the relation of the plaintiff thereto (whether as owner of a ship involved in the casualty or otherwise); stating that the order has been issued and specifying the amounts fixed thereby as the limit of the plaintiff's liability and the time allowed thereby for the filing of claims.

In no case shall claims be filed and accepted more than six (6) months from publication thereof.

Section 9. *Satisfaction of claims.* – Claims filed within the time specified in the order of the court shall be duly recorded by the plaintiff or his or her duly authorized representative, and reported to the court at the end of the period for entering of appearances and making of claims, with proposals for their satisfaction through payment from the limitation fund. The court, upon review of the report and proposal for satisfaction, and finding the same to be in due and proper form, and within fifteen (15) calendar days from receipt, shall order payment of the claims under such terms and conditions as may be appropriate.

Section 10. *Closure of the Limitation Action.* – Upon final payment of all claims of all defendants or claimants, the plaintiff and the Sheriff shall make a report to the court, setting forth the complete list of appearing defendants with their respective claims, the payments made, and proof of receipt of such payments. The court shall thereafter issue an order declaring the limitation action closed.

Any amounts remaining after payment of the claims shall be released and returned, upon motion, to the plaintiff or his or her duly authorized representative. The closure of the limitation action shall become final and executory, upon the expiration of fifteen (15) calendar days from receipt by the plaintiff/s and the defendant/s of the order of closure. Such order shall be final and unappealable, and forever bar any and all claims against the plaintiff/s in respect of the casualty subject of the action. Closure of a limitation action, however, does not bar remedies against actions in fraud of creditors.

PART V
COMMON PROVISIONS

RULE 9
COMMON PROVISIONS

Section 1. *Payment of filing and other legal fees.* – The payment of filing and all other legal fees by the plaintiff shall be made upon the filing of the complaint. No action shall be taken upon the prayer for issuance of a WAVE unless all legal fees have been paid and the plaintiff has undertaken to pay for port dues, charges and other expenses to be incurred in the maintenance of the property under arrest.

Section 2. *Applicability of the regular rules.* – The regular procedure prescribed in the Rules of Court, and other pertinent Supreme Court Circulars and Resolutions, shall apply to the Rules of Procedure for Admiralty Cases herein provided in a suppletory capacity insofar as they are not inconsistent herewith.

Section 3. *Procedure on pending cases.* – These Rules shall also apply to pending Admiralty cases with respect to the remainder of the proceedings.

Section 4. *Appeal.* – The judgment or final order shall be appealable to the appropriate court, except for limitation actions as provided in Rule 8, which shall decide the same in accordance with the provisions on appeals of the Rules of Court.

Section 5. *Designation of Admiralty Courts.* – The Supreme Court shall designate existing branches of the Regional Trial Courts as Admiralty courts which shall have jurisdiction over all actions in Admiralty.

Section 6. *Monitoring, Evaluation and Training.* – The application and adherence to the Rules of Procedure for Admiralty Cases shall be subject to periodic monitoring by the Sub-Committee, through the Office of the Court Administrator (OCA). For this purpose, all designated Admiralty courts shall accomplish and submit a periodic report of data in a form to be generated and distributed by the OCA.

Training of judges and courts personnel shall be undertaken by the Philippine Judicial Academy in coordination with the Sub-Committee.

Section 7. *Effectivity.* – The Rules of Procedure for Admiralty Cases shall take effect on January 1, 2020.

Annex "A" - Form of Writ of Summons in Action *In Rem*

Republic of the Philippines

Judicial Region
Regional Trial Court

_____,
Plaintiff,

vs.

Civil Case No. _____
Admiralty Action *in Rem* Against:

_____,
Defendant.

X-----X

WRIT OF SUMMONS IN ACTION IN REM

TO: _____

GREETINGS:

This Writ of Summons has been issued against the property described below with respect to the claim endorsed herein:

The proceedings in this case shall be governed by the Special Rules on Admiralty Cases, SC Circ. _____ dated _____. You are hereby required, within ten (10) calendar days from receipt of this Summons, to either satisfy the claim or enter an appearance and file with this Court your verified Answer to the attached Complaint, copy served upon the plaintiff.

You are required to submit with your verified Answer the Judicial Affidavits of any witnesses as well as certified copies of relevant documents to stand as your evidence in this case. You must present the original document/s on the day of pre-trial.

Motion to dismiss the complaint, motion for bill of particulars, and motion for extension of time to file pleadings, affidavits or other paper are prohibited.

In case of failure to file an Answer, the court *motu proprio*, as may be warranted by the facts alleged in the Complaint, may declare you in default and render judgment based on the complaint and evidence attached thereto and the reliefs prayed for.

If the property subject of the plaintiff's Complaint has been placed under arrest, the Court may order the same to be sold to satisfy the plaintiff's claim.

Witness my hand under the seal of this Court, this ___ day of _____, at _____, Philippines.

Branch Clerk of Court

NOTE: For inquiries, call Tel. No. _____

Annex "B" - Form of Warrant of Arrest of Vessel, Cargo, or Freight

Republic of the Philippines

Judicial Region
Regional Trial Court

_____,
Plaintiff,

vs.

Civil Case No. _____
Admiralty Action in Rem Against:

_____,
Defendant.

X-----X

WARRANT OF ARREST OF (VESSEL/ CARGO/ FREIGHT)

TO: The Sheriff
Regional Trial Court

GREETINGS:

You are hereby commanded to arrest and detain the property described below:

located at the port of _____ (and the cargo now or lately laden therein, together with the freight due for the transportation thereof) or (and the freight due for the transportation of the cargo now or lately laden therein), and to keep the ship under safe arrest until; further orders from the court. These proceedings shall be governed by the provisions of the Special Rule on Admiralty Cases, SC Circ. _____, dated _____.

The plaintiff's claim is for _____ (stated amount in the complaint).

You may call upon and deputize the duly authorized personnel of the Philippine Coast Guard, Bureau of Customs, Philippine Port Authority, pertinent port authority, or any other law enforcement agency for assistance in effecting the arrest when they can render such assistance without detriment to their safety.

Kindly make your return within ten (10) calendar days from receipt. This warrant shall continue to be valid and enforceable for a period of twelve (12) months from the date of its issuance and shall remain with you until the property is arrested.

Issued this ___ day of _____ at _____, Philippines.

Presiding Judge