

September 18, 2012

EN BANC

B.M. No. 2012

NOTICE

Sirs/Mesdames :

Please take notice that the Court en banc issued a Resolution dated *September 18, 2012*, which reads as follows:

"B.M. No. 2012 [Proposed Rule on Mandatory Legal Aid Service for Practicing Lawyers]

RESOLUTION

In its endeavor "to address [the] limited access to justice [by the poor]," ¹⁽¹⁾ the Integrated Bar of the Philippines (IBP) proposed that all practicing lawyers be required to render free legal aid services, and submitted a draft rule entitled "Rule of Mandatory Legal Aid Service for Practicing Lawyers" (Rule). ²⁽²⁾

Then Chief Justice Renato C. Corona proposed some revisions to the draft. After the Court received the Comment of the Integrated Bar of the Philippines on the suggested revisions, it resolved to approve on 10 February 2009 the revised proposed Rule. Section 9 thereof provides:

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

approval.

On 17 February 2009, the Court issued a Resolution the dispositive portion of which reads:

WHEREFORE, the Integrated Bar of the Philippines, through the National Committee on Legal Aid, is hereby directed to promptly coordinate with the various chapters in drafting the regulations for implementing the Rule on Mandatory Legal Aid Service. It is also directed to present the draft implementing regulations to the members of the bar during the 12th National Convention of Lawyers on March 26 to 28, 2009 in a session specifically devoted to that purpose. It is further directed to furnish all IBP chapters with a copy of the draft not later than March 30, 2009. The chapters shall then submit their comments on the draft not later than April 30, 2009. Voluntary organizations of lawyers may also submit their comments on the draft within the same period.

The NCLA shall submit the final draft for approval of the IBP Board of Governors not later than May 15, 2009. The final draft, as approved by the IBP Board of Governors, shall then be submitted not later than May 25, 2009 for the final approval of this Court. ³⁽³⁾

Pending the submission of the IBP of the final draft implementing rules, the Court received numerous communications from several law firms and IBP Chapters expressing their concerns on the adverse effect of making free legal aid services mandatory. Some were merely noted while the rest were referred to the IBP for its consideration.

On 23 June 2009, the Court issued a Resolution, to wit:

xxx xxx xxx

In a letter dated June 19, 2009, IBP National President Feliciano M. Bautista informed this Court that, while the draft implementing regulations of the Rule have been prepared, some IBP chapters requested deferment of the implementation of the Rule in order to afford the said chapters more time to consult their members and allow wider discussions on a number of important issues pertinent to the Rule.

The implementing regulations are supposed to provide guidelines for the proper and orderly enforcement of the Rule as well as to address the operational and other administrative concerns raised by lawyers and lawyers' organizations regarding the Rule. Thus, the Rule may not be fully enforced without such

implementing regulations. Also, all significant concerns regarding the Rule and its implementing regulations should be addressed before their full implementation.

Accordingly, the IBP Board of Governors is hereby DIRECTED to finalize and submit the draft implementing regulations for the final approval of this Court as soon as possible.

The implementation of the Rule on Mandatory Legal Aid Service is further hereby DEFERRED until December 31, 2009. The Rule will therefore take effect on January 1, 2010 provided its implementing regulations shall have been published prior to that date.

Lastly, the IBP is DIRECTED to submit its comment on the Rule itself, particularly on the concerns that rendition of free legal aid service should be voluntary, that the Rule will spawn litigations and clog court dockets and other related concerns. 4(4)

In compliance therewith, the IBP submitted on 7 December 2009 the following: "(a) Written Comments and Recommendations on B.M. No. 2012; (b) Proposed Rule on Comprehensive Legal Aid Services (CLAS); and (c) Proposed Implementing Regulations of the Rule on CLAS." 5(5) It called the attention of the Court to the following features of the draft Rule and Implementing Regulations, to wit:

- (a) The rule is renamed as the *Rule on Comprehensive Legal Aid Service (CLAS)*;
- (b) Removed the distinction between lawyers who appear before courts and quasi-judicial bodies and those who do not, as they are similarly situated with respect to their duties and privileges as lawyers;
- (c) Expanded the coverage of compliance to include rendering legal opinion, counseling or preparation of legal documents and participating in developmental legal aid projects or activities of the IBP; and
- (d) Rendition of free legal aid service should be at the option of lawyers; Provided, that those who will not render free legal aid service shall be required to contribute to the legal aid program of the IBP. 6(6)

On 20 July 2010, the Court directed the IBP Board of Governors to, among others, collate the final comments, recommendations and suggestions of all IBP Chapters on the Rule and the implementing regulations.

Meanwhile, the Court noted the following oppositions to the implementation of the Rule filed by specific IBP Chapters: (a) Joint Resolution No. 1, Series of 2010, of the IBP Cebu City and Cebu Province Chapters entitled "Joint Resolution of the Integrated Bar of the Philippines (IBP) Cebu City and Cebu Province Chapters Opposing the Implementation of the Mandatory Legal Aid Service Under Bar Matter No. 2012 and Reiterating the Call to Instead Make it Voluntary"; ⁷⁽⁷⁾ (b) Board Resolution No. 03, Series of 2010 of the IBP Bohol Chapter, expressing opposition to the implementation of the Rule; ⁸⁽⁸⁾ (c) Position Paper for IBP Iloilo Chapter (on the Proposed Implementing Rules and Regulations for Bar Matter No. 2012 [CLAS]) dated 30 September 2010); ⁹⁽⁹⁾ and (d) the "Manifesto: No to the Implementation of Bar Matter 2012, Yes to Genuine & Voluntary Free Legal Aid" supported by different law organizations in Cebu and over 500 lawyers who signed the same. ¹⁰⁽¹⁰⁾

On 15 November 2010, the IBP, through its National Director for Legal Aid, submitted a summary of the comments and recommendations it received from the Iloilo City Legal Office, IBP-Iloilo Chapter, IBP Batangas Chapter and IBP Negros Occidental Chapter expressing concerns on the following:

(a) the duplication of the functions of the PAO/court-appointed *counsel de officio*; (b) the voluntary nature which should underlie the spirit of public service and responsibility sought to be promoted and strengthened by the proposed Rule; (c) logistical considerations such as the definition of a "pauper litigant", its effect on the payment of docket fees and the effectivity of the Means and Merit test proposed for determining litigants who may avail of the CLAS; and (d) the excessive number of hours required for compliance (60 hours per year) and the proper allocation of credited hours to preparation of pleadings and affidavits; (e) the responsible officer and the manner of assignment of cases to lawyers; and (f) the heavy burden of the reportorial requirements as well as the penalties for non-compliance with CLAS. ¹¹⁽¹¹⁾

To address all the issues, the Court required the IBP Board of Governors to include the summary of the comments and recommendations in the agenda for the National Convention of Lawyers for further discussion, comments and recommendations and submit a report thereon. ¹²⁽¹²⁾

After a series of extensions of time to file compliance, the IBP submitted on 18

August 2011 its Compliance and Manifestation that: (a) the proposed Rule and its implementing regulations were presented and discussed during the Plenary Session of the 19th National Convention of Lawyers held on 09 April 2011; and (b) in its Regular Meeting held on 10 August 2011, the 19th Board of Governors of the IBP adopted and approved a resolution to submit, for further deliberations and discussions, the proposed CLAS and its implementing regulations to the House of Delegates of the IBP at the convention scheduled on 26-28 January 2012.

In its June 2012 issue, The Bar Tribune, the Official Publication of the IBP, published the "Implementing Regulations on the Rule on Comprehensive Legal Aid Service (Bar Matter No. 2012)." 13(13)

In view of all the foregoing, the Court hereby resolves to REQUIRE the IBP to:

1. MANIFEST whether the "Implementing Regulations on the Rule on Comprehensive Legal Aid Service (Bar Matter No. 2012)" published in The Bar Tribune serves as the IBP's final proposed implementing regulations; and
2. SUBMIT, within fifteen (15) days from notice: (a) a report on the deliberations and discussions of the House of Delegates of the IBP at the 26-28 January 2012 convention to supplement its Compliance and Manifestation submitted on 18 August 2011; and (b) its final proposed CLAS Rule and implementing regulations based on the following: (i) the written comments, recommendations and suggestions of all IBP Chapters pursuant to the Court's Resolution of 20 July 2010; (ii) the concerns raised during the National Convention of Lawyers; and (iii) the results of the deliberations and discussions of the House of Delegates of the IBP at the convention held on 26-28 January 2012.

Also, to give the Court an overview of the condition sought to be addressed by the Rule, the IBP is likewise DIRECTED to SUBMIT, within the same period, the following:

- (1) relevant statistics on the following: (a) the ratio of the number of pauper litigants to the number of lawyers under the Public Attorney's Office; (b) the number of pauper litigants deemed unattended and in need of free legal aid services; (c) the number of

pauper litigants that benefited from specific services provided by the Legal Aid Program as well as the expenses entailed to carry out the program; and (d) other relevant activities and expenses incurred therefor, all for the past three (3) years; and

- (2) other major concerns relevant to the program, to wit: (a) projected annual expenses to monitor compliance with the Rule, including but not limited to the number of support staff needed and logistic requirements, if any; (b) actual and incidental expenses necessary to assist one pauper litigant; and (c) identification of the expenses to be covered by the 80% of the CLAS collections retained by the IBP Chapters vis-a-vis those that will be covered by the 20% of the collections to be remitted to the IBP National Treasurer, pursuant to the IBP's proposed implementing regulations.

The Court shall make a final determination of the matter upon compliance with the aforementioned requirements." Villarama, Jr., J., on official leave. (adv60)

Very truly yours,

(SGD.) ENRIQUETA E. VIDAL
Clerk of Court

Footnotes

1. *Rollo*, p. 20. The Proposed Rule of Mandatory Legal Aid Service for Practicing Lawyers: A Rationale.
2. *Id.* at 21-22. Proposed Rule of Mandatory Legal Aid Service for Practicing Lawyers.
3. *Id.* at 57-59.
4. *Id.* at 164-167.
5. *Id.* at 276-280. Compliance dated 2 December 2009 with Annexes "A" and "B."
6. *Id.*, Annex "B."
7. Resolution dated 20 July 2010.
8. Resolution dated 10 August 2010.
9. Resolution dated 19 October 2010.
10. Resolution dated 1 March 2011.
11. Resolution dated 22 March 2011.
12. Resolution dated 22 March 2011.
13. The Bar Tribune, June 2012 issue, pp. 17-18.

Endnotes

1 (Popup - Popup)

1. Rollo, p. 20. The Proposed Rule of Mandatory Legal Aid Service for Practicing Lawyers: A Rationale.

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2. Id. at 21-22. Proposed Rule of Mandatory Legal Aid Service for Practicing Lawyers.

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