Republic of the Philippines
Supreme Court
Manila

A.M. No. 12-8-8-SC
JUDICIAL AFFIDAVIT RULE

Whereas, case congestion and delays plague most courts in cities, given the huge volume of cases filed each year and the slow and cumbersome adversarial system that the judiciary has in place;

Whereas, about 40% of criminal cases are dismissed annually owing to the fact that complainants simply give up coming to court after repeated postponements;

Whereas, few foreign businessmen make long-term investments in the Philippines because its courts are unable to provide ample and speedy protection to their investments, keeping its people poor;

Whereas, in order to reduce the time needed for completing the testimonies of witnesses in cases under litigation, on February 21, 2012 the Supreme Court approved for piloting by trial courts in Quezon City the compulsory use of judicial affidavits in place of the direct testimonies of witnesses;

Whereas, it is reported that such piloting has quickly resulted in reducing by about two-thirds the time used for presenting the testimonies of witnesses, thus speeding up the hearing and adjudication of cases;

Whereas, the Supreme Court Committee on the Revision of the Rules of Court, headed by Senior Associate Justice Antonio T. Carpio, and the Sub-Committee on the Revision of the Rules on Civil Procedure, headed by Associate Justice Roberto A. Abad, have recommended for adoption a Judicial Affidavit Rule that will replicate nationwide the success of the Quezon City experience in the use of judicial affidavits; and

Whereas, the Supreme Court En Banc finds merit in the recommendation;

NOW, THEREFORE, the Supreme Court En Banc hereby issues and promulgates the following:

Section 1. *Scope.* – (a) This Rule shall apply to all actions, proceedings, and incidents requiring the reception of evidence before:

(1) The Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, the Municipal Circuit Trial Courts, and the Shari'a Circuit Courts but shall not apply to small claims cases under A.M. 08-8-7-SC;

(2) The Regional Trial Courts and the Shari'a District Courts;

(3) The Sandiganbayan, the Court of Tax Appeals, the Court of Appeals, and the Shari'a Appellate Courts;

(4) The investigating officers and bodies authorized by the Supreme Court to receive evidence, including the Integrated Bar of the Philippine (IBP); and

(5) The special courts and quasi-judicial bodies, whose rules of procedure are subject to disapproval of the Supreme Court, insofar as their existing rules of procedure contravene the provisions of this Rule.[1]

(b) For the purpose of brevity, the above courts, quasi-judicial bodies, or investigating officers shall be uniformly referred to here as the "court."

Sec. 2. *Submission of Judicial Affidavits and Exhibits in lieu of direct testimonies.* – (a) The parties shall file with the court and serve on the adverse party, personally or by licensed courier service, not later than five days before pre-trial or preliminary conference or the scheduled hearing with respect to motions and incidents, the following:

(1) The judicial affidavits of their witnesses, which shall take the place of such witnesses' direct testimonies; and

(2) The parties' documentary or object evidence, if any, which shall be attached to the judicial affidavits and marked as Exhibits A, B, C, and so on in the case of the complainant or the plaintiff, and as Exhibits 1, 2, 3, and so on in the case of the respondent or the defendant.

(b) Should a party or a witness desire to keep the original document or object evidence in his possession, he may, after the same has been identified, marked as exhibit, and authenticated, warrant in his judicial affidavit that the copy or reproduction attached to such affidavit is a faithful copy or reproduction of that original. In addition, the party or witness shall bring the original document or object evidence for comparison during the preliminary conference with the attached copy, reproduction, or pictures, failing which the latter shall not be admitted.

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[1] By virtue of the Supreme Court's authority under Section 5 (5), Article VIII, of the 1987 Constitution to disapprove rules of procedure of special courts and quasi-judicial bodies.

This is without prejudice to the introduction of secondary evidence in place of the original when allowed by existing rules.

Sec. 3. *Contents of Judicial Affidavit.* – A judicial affidavit shall be prepared in the language known to the witness and, if not in English or Filipino, accompanied by a translation in English or Filipino, and shall contain the following:

(a) The name, age, residence or business address, and occupation of the witness;

(b) The name and address of the lawyer who conducts or supervises the examination of the witness and the place where the examination is being held;

(c) A statement that the witness is answering the questions asked of him, fully conscious that he does so under oath, and that he may face criminal liability for false testimony or perjury;

(d) Questions asked of the witness and his corresponding answers, consecutively numbered, that:

(1) Show the circumstances under which the witness acquired the facts upon which he testifies;

(2) Elicit from him those facts which are relevant to the issues that the case presents; and

(3) Identify the attached documentary and object evidence and establish their authenticity in accordance with the Rules of Court;

(e) The signature of the witness over his printed name; and

(f) A jurat with the signature of the notary public who administers the oath or an officer who is authorized by law to administer the same.

Sec. 4. *Sworn attestation of the lawyer.* – (a) The judicial affidavit shall contain a sworn attestation at the end, executed by the lawyer who conducted or supervised the examination of the witness, to the effect that:

(1) He faithfully recorded or caused to be recorded the questions he asked and the corresponding answers that the witness gave; and

(2) Neither he nor any other person then present or assisting him coached the witness regarding the latter's answers.

(b) A false attestation shall subject the lawyer mentioned to disciplinary action, including disbarment.

Sec. 5. *Subpoena.* – If the government employee or official, or the requested witness, who is neither the witness of the adverse party nor a hostile witness, unjustifiably declines to execute a judicial affidavit or refuses without just cause to make the relevant books, documents, or other things under his control available for copying, authentication, and eventual production in court, the requesting party may avail himself of the issuance of a subpoena *ad testificandum* or *duces tecum* under Rule 21 of the Rules of Court. The rules governing the issuance of a subpoena to the witness in this case shall be the same as when taking his deposition except that the taking of a judicial affidavit shall be understood to be *ex parte.*

Sec. 6. *Offer of and objections to testimony in judicial affidavit.* – The party presenting the judicial affidavit of his witness in place of direct testimony shall state the purpose of such testimony at the start of the presentation of the witness. The adverse party may move to disqualify the witness or to strike out his affidavit or any of the answers found in it on ground of inadmissibility. The court shall promptly rule on the motion and, if granted, shall cause the marking of any excluded answer by placing it in brackets under the initials of an authorized court personnel, without prejudice to a tender of excluded evidence under Section 40 of Rule 132 of the Rules of Court.

Sec. 7. *Examination of the witness on his judicial affidavit.* – The adverse party shall have the right to cross-examine the witness on his judicial affidavit and on the exhibits attached to the same. The party who presents the witness may also examine him as on re-direct. In every case, the court shall take active part in examining the witness to determine his credibility as well as the truth of his testimony and to elicit the answers that it needs for resolving the issues.

Sec. 8. *Oral offer of and objections to exhibits.* – (a) Upon the termination of the testimony of his last witness, a party shall immediately make an oral offer of evidence of his documentary or object exhibits, piece by piece, in their chronological order, stating the purpose or purposes for which he offers the particular exhibit.

(b) After each piece of exhibit is offered, the adverse party shall state the legal ground for his objection, if any, to its admission, and the court shall immediately make its ruling respecting that exhibit.

(c) Since the documentary or object exhibits form part of the judicial affidavits that describe and authenticate them, it is sufficient that such exhibits are simply cited by their markings during the offers, the objections, and the rulings, dispensing with the description of each exhibit.

Sec. 9. *Application of rule to criminal actions.* – (a) This rule shall apply to all criminal actions:

(1) Where the maximum of the imposable penalty does not exceed six years;

(2) Where the accused agrees to the use of judicial affidavits, irrespective of the penalty involved; or

(3) With respect to the civil aspect of the actions, whatever the penalties involved are.

(b) The prosecution shall submit the judicial affidavits of its witnesses not later than five days before the pre-trial, serving copies of the same upon the accused. The complainant or public prosecutor shall attach to the affidavits such documentary or object evidence as he may have, marking them as Exhibits A, B, C, and so on. No further judicial affidavit, documentary, or object evidence shall be admitted at the trial.

(c) If the accused desires to be heard on his defense after receipt of the judicial affidavits of the prosecution, he shall have the option to submit his judicial affidavit as well as those of his witnesses to the court within ten days from receipt of such affidavits and serve a copy of each on the public and private prosecutor, including his documentary and object evidence previously marked as Exhibits 1, 2, 3, and so on. These affidavits shall serve as direct testimonies of the accused and his witnesses when they appear before the court to testify.

Sec. 10. *Effect of non-compliance with the Judicial Affidavit Rule.* – (a) A party who fails to submit the required judicial affidavits and exhibits on time shall be deemed to have waived their submission. The court may, however, allow only once the late submission of the same provided, the delay is for a valid reason, would not unduly prejudice the opposing party, and the defaulting party pays a fine of not less than P1,000.00 nor more than P5,000.00, at the discretion of the court.

(b) The court shall not consider the affidavit of any witness who fails to appear at the scheduled hearing of the case as required. Counsel who fails to appear without valid cause despite notice shall be deemed to have waived his client's right to confront by cross-examination the witnesses there present.

(c) The court shall not admit as evidence judicial affidavits that do not conform to the content requirements of Section 3 and the attestation requirement of Section 4 above. The court may, however, allow only once the subsequent submission of the compliant replacement affidavits before the hearing or trial provided the delay is for a valid reason and

would not unduly prejudice the opposing party and provided further, that public or private counsel responsible for their preparation and submission pays a fine of not less than P1,000.00 nor more than P5,000.00, at the discretion of the court.

Sec. 11. *Repeal or modification of inconsistent rules.* – The provisions of the Rules of Court and the rules of procedure governing investigating officers and bodies authorized by the Supreme Court to receive evidence are repealed or modified insofar as these are inconsistent with the provisions of this Rule.

The rules of procedure governing quasi-judicial bodies inconsistent herewith are hereby disapproved.

Sec. 12. *Effectivity.*—This rule shall take effect on January 1, 2013 following its publication in two newspapers of general circulation not later than September 15, 2012. It shall also apply to existing cases.

Manila, September 4, 2012.

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE P. PEREZ
Associate Justice

JOSE C. MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **DECEMBER 10, 2013**, *which reads as follows:*

"**A.M. No. 12-8-8-SC (*Judicial Affidavit Rule*).** – Acting on the recommendation of the Chairman of the Chief Justice Committee to Address Case Congestion and Delays, the Court resolves to **EXTEND** for another year, ending on 31 December 2014, the modified public prosecutors' compliance with the provisions of the Judicial Affidavit Rule insofar as the prosecution of criminal cases is concerned. The Court enjoins the National Prosecution Service of the Department of Justice and the Prosecutors' League of the Philippines to work closely with the Supreme Court Sub-Committee on the Revision of the Rules of Criminal Procedure, headed by Associate Justice Diosdado M. Peralta, in developing comprehensive and truly meaningful changes that will minimize the problems of delay in the criminal justice system.

Let the Office of the Court Administrator and the Public Information Office be furnished with copy of this resolution for circulation." (adv46)

Very truly yours,

ENRIQUETA E. VIDAL
Clerk of Court mgr

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Court Administrator
Hon. Jose Midas P. Marquez (x)
Deputy Court Administrators
Hon. Raul B. Villanueva (x)
Hon. Jenny Lind R. Aldecoa-Delorino (x)
Hon. Thelma C. Bahia (x)
Supreme Court

Atty. Caridad A. Pabello (x)
Chief ,Office of the Administrative Services
Atty. Lilian Barribal-Co (x)
Chief, Financial Management Office
Atty. Marina B. Ching (x)
Chief, Court Management Office
Atty. Wilhelmina D. Geronga (x)
Chief, Legal Office
OCA, Supreme Court

Hon. Theodore Te (x)
Assistant Court Administrator and
Chief, Public Information Office

Honorable Maria Lourdes P.A. Sereno (x)
Chief Justice & Chairperson
Committee on the Revision of the Rules of Court
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Hon. Disodado M. Peralta (x)
Associate Justice and Chairperson
Sub-Committee on the Revision of the Rules
on Criminal Procedure
Supreme Court

Hon. Roberto A. Abad (x)
Associate Justice and Chairperson
Sub-Committee on the Revision of the Rules
on Civil Procedure
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Secretary
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A.M. No. 12-8-8-SC
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Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **JANUARY 8, 2013**, *which reads as follows:*

"**A.M. No. 12-8-8-SC** (*Judicial Affidavit Rule*). – Acting on the petition of the Prosecutors' League of the Philippines dated 12 December 2012 for the deferment of the effectivity of the Judicial Affidavit Rule insofar as the prosecution of criminal cases is concerned, the Court resolves not to defer the effectivity of the Rule in such cases but instead to modify the public prosecutors' compliance with its provisions for a period of one year, from 1 January to 31 December 2013, as follows:

1. The public prosecutors shall use, for the purpose of complying with the Judicial Affidavit Rule in the first and second level courts during the one-year period, the sworn statements that the complainant and his or her witnesses submit during the initiation of the criminal action before the office of the public prosecutor or directly before the trial court. In such cases, the attending public prosecutor shall, when presenting the witness, require him or her to affirm the truth of what the sworn statement contains and ask the witness only those additional direct examination questions that have not been amply covered by the sworn statement.

2. The one-year modified compliance here granted shall not apply where the complainant is represented by private prosecutor duly empowered in accordance with the Rules of Court to appear in court and prosecute the case. The private prosecutor shall be charged in the applicable cases with the duty to prepare the required judicial affidavits of the complainant and his or her witnesses and cause the service of copies of the same upon the accused.

3. The Court expects the public prosecutors in both the first and second level courts to take steps during the one-year modified compliance period (i) to seek the needed augmentation of their ranks; and (ii) to develop

methods and systems that would enable them to fully comply with the requirements of the Judicial Affidavit Rule when the modified compliance period ends. The Court notes that 80% of the backlog in the first and second level courts involve criminal cases, and that delays in those cases are caused mainly by lack of prosecutors, absence of prosecution witnesses, and lack of PAO lawyers.

4. The judicial affidavit rule shall remain in full force and effect in all other cases and situations not covered by this resolution.

This resolution shall take effect immediately."

Very truly yours,

ENRIQUETA E. VIDAL
Clerk of Court

Court Administrator
Hon. Jose Midas P. Marquez (x)
Deputy Court Administrators
Hon. Raul B. Villanueva (x)
Hon. Antonio M. Eugenio, Jr. (x)
Assistant Court Administrators
Hon. Thelma C. Bahia (x)
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