

Philippine Earth Justice Center, Inc.

Rules of Procedure for Environmental Cases
A.M. No. 09-6-8-SC

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A PRIMER

Rules of Procedure for Environmental Cases
A.M. No. 09-6-8-SC
CIVIL PROCEDURE

I. Introduction

A.M. No. 09-6-8-SC otherwise known as the Rules of Procedure for Environmental Cases is promulgated by the Supreme Court of the Philippines with the following objectives:

- (a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;
- (b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;
- (c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and
- (d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

II. What kinds of cases are covered by the Rules of Procedure for Environmental Cases (Rules):

The Rules govern the procedure in *civil*, *criminal* and *special civil actions* before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:

- (a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;
- (b) P.D. No. 705, Revised Forestry Code;
- (c) P.D. No. 856, Sanitation Code;
- (d) P.D. No. 979, Marine Pollution Decree;
- (e) P.D. No. 1067, Water Code;
- (f) P.D. No. 1151, Philippine Environmental Policy of 1977;
- (g) P.D. No. 1433, Plant Quarantine Law of 1978;
- (h) P.D. No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;
- (i) R.A. No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;
- (j) R.A. No. 4850, Laguna Lake Development Authority Act;
- (k) R.A. No. 6969, Toxic Substances and Hazardous Waste Act;
- (l) R.A. No. 7076, People's Small-Scale Mining Act;

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- (m) R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;
- (n) R.A. No. 7611, Strategic Environmental Plan for Palawan Act;
- (o) R.A. No. 7942, Philippine Mining Act;
- (p) R.A. No. 8371, Indigenous Peoples Rights Act;
- (q) R.A. No. 8550, Philippine Fisheries Code;
- (r) R.A. No. 8749, Clean Air Act;
- (s) R.A. No. 9003, Ecological Solid Waste Management Act;
- (t) R.A. No. 9072, National Caves and Cave Resource Management Act;
- (u) R.A. No. 9147, Wildlife Conservation and Protection Act;
- (v) R.A. No. 9175, Chainsaw Act;
- (w) R.A. No. 9275, Clean Water Act;
- (x) R.A. No. 9483, Oil Spill Compensation Act of 2007; and
- (y) Provisions in C.A. No. 141, The Public Land Act; R.A. No. 6657, Comprehensive Agrarian Reform Law of 1988; R.A. No. 7160, Local Government Code of 1991; R.A. No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); R.A. No. 7308, Seed Industry Development Act of 1992; R.A. No. 7900, High-Value Crops Development Act; R.A. No. 8048, Coconut Preservation Act; R.A. No. 8435, Agriculture and Fisheries Modernization Act of 1997; R.A. No. 9522, The Philippine Archipelagic Baselines Law; R.A. No. 9593, Renewable Energy Act of 2008; R.A. No. 9637, Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources. (Section 2, Rule 1)

III. Who may file a civil action involving the enforcement or violation of any environmental law?

- a) Any real party in interest, including the government and juridical entities authorized by law (Section 4, Rule 2)
- b) Any Filipino citizen in representation of others, including minors or generations yet unborn, otherwise called a citizen suit (Section 5, Rule 2)

b.1 For a citizen suit, the court shall defer the payment of filing and other legal fees that shall serve as first lien on the judgment award. (Section 12, Rule 2)

IV. How is a civil action filed?

A civil action involving the enforcement or violation of any environmental law is filed through a verified complaint containing:

- a) the names of the parties;
- b) their addresses;
- c) the cause of action;
- d) the reliefs prayed for; and
- e) a statement that it is an environmental case and the law involved

The plaintiff shall attach to the verified complaint all evidence proving or supporting the cause of action consisting of:

- a) affidavits of witnesses, in question and answer form which shall comply with the rules of admissibility of evidence;
- b) documentary evidence;

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- c) if possible, object evidence; and
- d) a certification against forum shopping. (Section 3, Rule 2)

The payment of filing and other legal fees by the plaintiff shall be deferred until after judgment unless the plaintiff is allowed to litigate as an indigent. It shall constitute a first lien on the judgment award. (Section 12, Rule 2)

V. What are the pleadings and motions allowed?

The pleadings and motions that may be filed are:

- a) Complaint;
- b) Answer;
- c) Compulsory counterclaim;
- d) Cross-claim;
- e) Motion for intervention;
- f) Motion for discovery; and motion for reconsideration of the judgment. (Section 1, Rue 2)

VI. Are motions for postponement, new trial and petition for relief from judgment allowed?

Yes. But only in highly meritorious cases or in order to prevent a manifest miscarriage of justice. (Section 1, Rule 2)

VII. Are there any prohibited pleadings or motions?

The following pleadings or motions are not allowed:

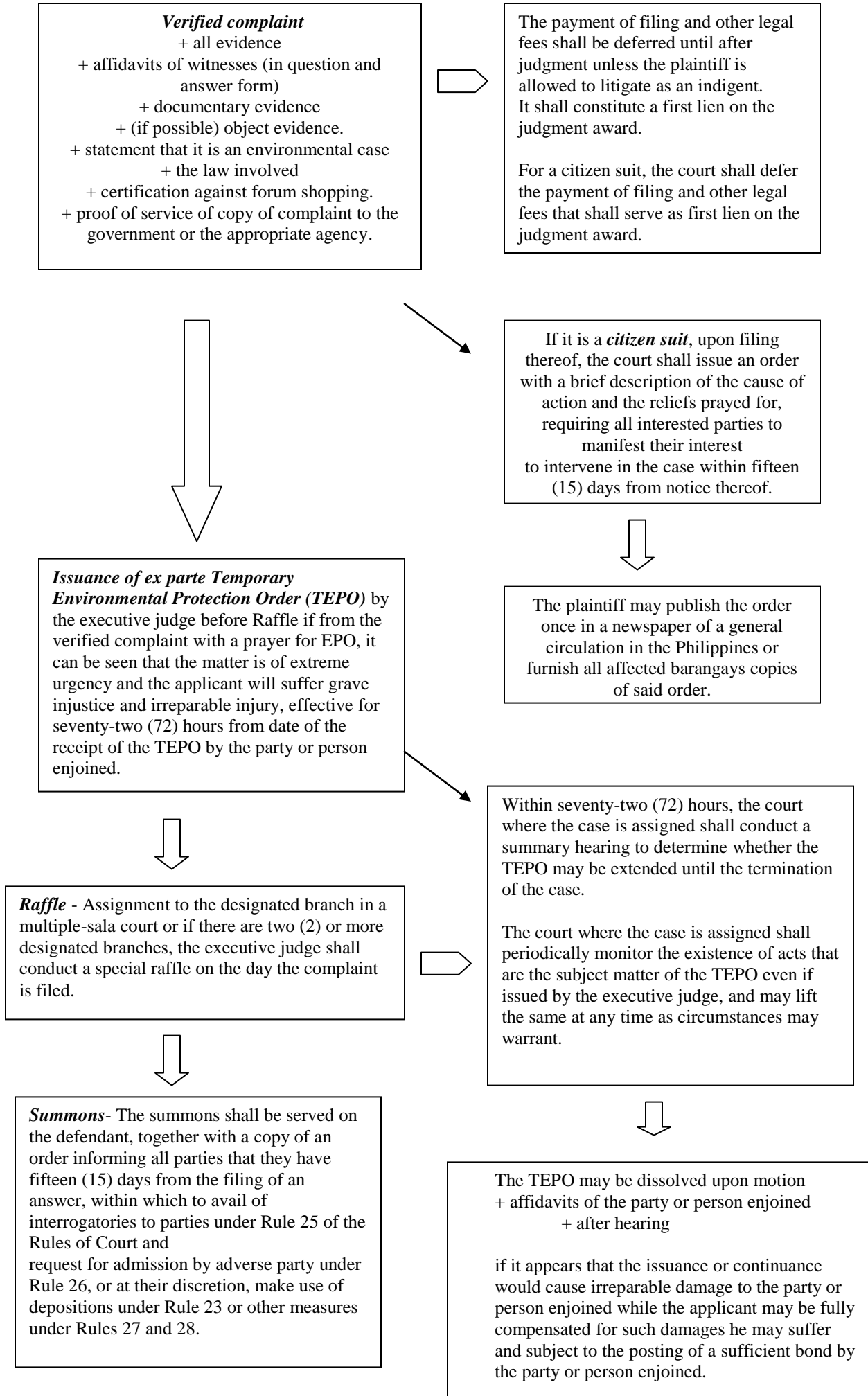
- (a) Motion to dismiss the complaint;
- (b) Motion for a bill of particulars;
- (c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;
- (d) Motion to declare the defendant in default;
- (e) Reply and rejoinder; and
- (f) Third party complaint. (Section 2, Rule 2)

VIII. May temporary restraining order (TRO) and preliminary injunction be issued against lawful actions of government agencies that enforce environmental laws or prevent its violations?

No. Except the Supreme Court.

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CIVIL PROCEDURE (Rules 2-5)



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Summons...(continued)



Filing of an answer.-Within fifteen (15) days from receipt of summons, the defendant shall file a verified answer and serve a copy thereof on the plaintiff

- + affidavits of witnesses
- + reports
- + studies of experts
- + all evidence in support of the defense.
- + compulsory counterclaim and cross-claim (if any)

Affirmative and special defenses not pleaded (except lack of jurisdiction) and cross-claims and compulsory counterclaims not asserted are waived and barred.



Filing of the answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

Failure to answer the complaint within the period provided, the court shall declare defendant in default and upon motion of the plaintiff, shall receive evidence ex parte and render judgment based thereon and the reliefs prayed for.



Notice of pre-trial- Within two (2) days from the filing of the answer to the counterclaim or cross-claim, if any, the branch clerk of court shall issue a notice of the pre-trial to be held not later than one (1) month from the filing of the last pleading.



The court shall schedule the pre-trial and set as many pre-trial conferences as may be necessary within a period of two (2) months counted from the date of the first pre-trial conference.



At least three (3) days before the pretrial, the parties shall submit pre-trial briefs.



Failure to comply with the required contents of a pre-trial brief may be a ground for contempt.

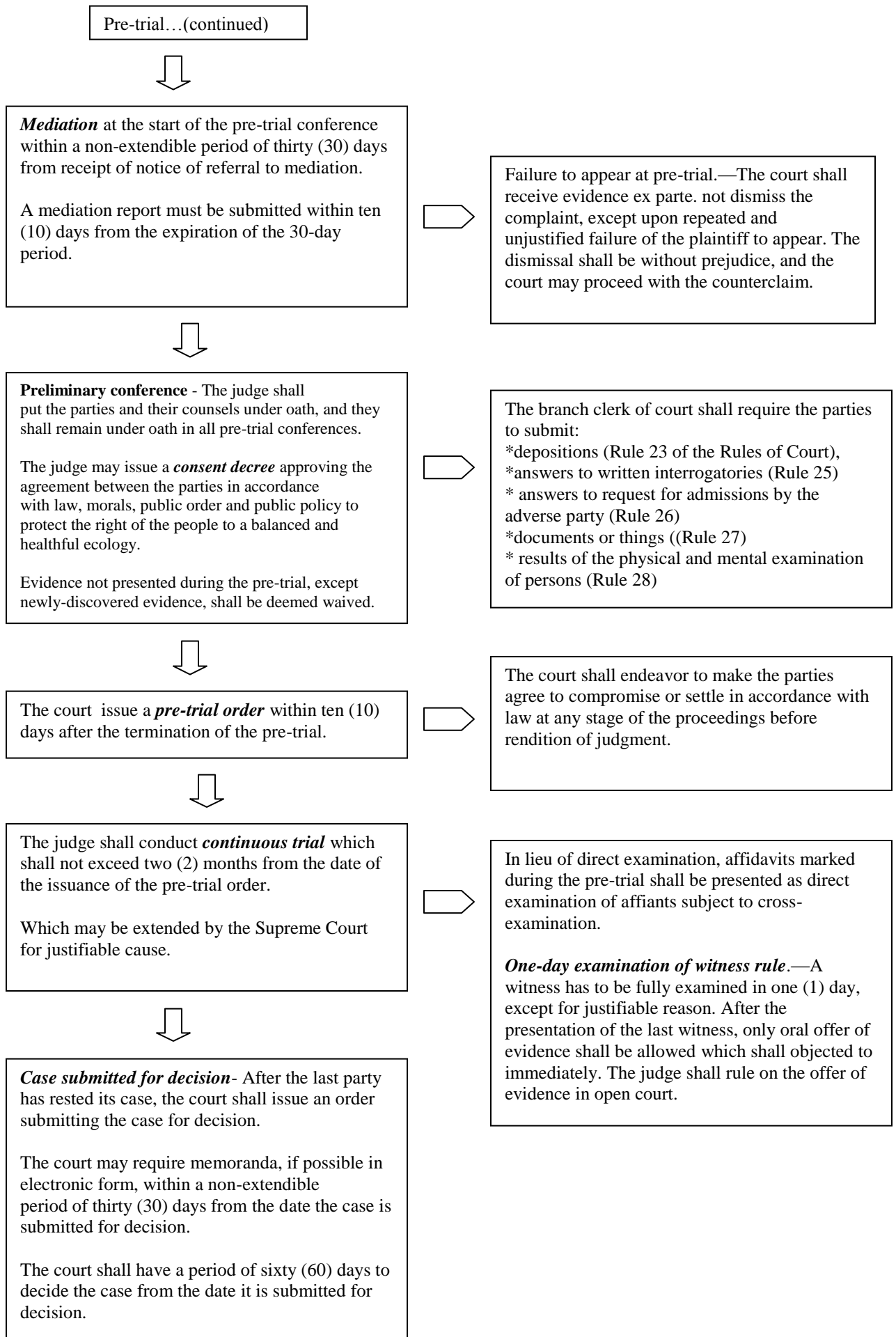
Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

TEPO...(continued)



The judge shall report any action taken on a TEPO, EPO, TRO or a preliminary injunction, including its modification and dissolution, to the Supreme Court, through the Office of the Court Administrator, within ten (10) days from the action taken.

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Judgment...(continued)



The court shall have a period of one (1) year from the filing of the complaint to try and decide the case which may be extended for justifiable cause.



Judgment – The following judgment shall be executory pending appeal unless restrained by the appellate court:
*directing the performance of acts for the protection, preservation or rehabilitation of the environment

The court may convert the TEPO to a permanent EPO or issue a writ of continuing mandamus directing the performance of acts which shall be effective until the judgment is fully satisfied.

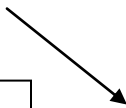


Reliefs in a citizen suit.—If warranted, the court may grant to the plaintiff proper reliefs including:
*protection, preservation or rehabilitation of the environment
* payment of attorney’s fees
* costs of suit
* other litigation expenses.
* require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or
* require the violator to contribute to a special trust fund subject to the control of the court.



Monitoring: The court may, by itself or through the appropriate government agency:
*monitor the execution of the judgment
* require the party concerned to submit written reports on a quarterly basis or sooner, detailing the progress of the execution and satisfaction of the judgment.

The other party may submit comments or observations on the execution



The court may motu proprio, or upon motion of the prevailing party, order that the enforcement of the judgment or order be referred to a commissioner who shall file with the court written progress reports on a quarterly basis or more frequently when necessary.



Return of writ of execution—Execution shall terminate when the decision or order has been implemented to the satisfaction of the court in accordance with Section 14, Rule 39 of the Rules of Court.