

[IC INSURANCE MEMORANDUM CIRCULAR NO. 2-91, May 21, 1991]

RULES OF PROCEDURE GOVERNING HEARINGS BEFORE THE INSURANCE COMMISSION

Pursuant to the provisions of Sections 414 and 416 of the Insurance Code, the following revised rules are hereby promulgated:

**Rule 1
Definition, Construction, and Scope**

SECTION 1. Definition - For purposes of these Rules, the word "Commission" shall refer to the Insurance Commission and the word "Commissioner" shall refer to the Insurance Commissioner.

SECTION 2. How Construed - These Rules shall be liberally construed in order to promote and attain the principal objective of adjudicating or settling claims and complaints and assisting the parties in obtaining a just, speedy and inexpensive determination of claims and complaints involving any loss, damage or liability for which an insurer may be answerable under any kind of policy or contract of insurance or for which such Insurer may be liable under a contract of suretyship, or for which a reinsurer may be sued under any contract or reinsurance it may have entered into, or for which a mutual benefit association may be held liable under the membership certificates it has issued to its members.

SECTION 3. Scope - These rules shall govern hearings of such claims and complaints when the amount of any loss, damage or liability, excluding Interest, costs and attorney's fees, being claimed or sued upon any kind of Insurance, bond, reinsurance contract, or membership certificate does not exceed in any single claim ONE HUNDRED THOUSAND PESOS.

**Rule 2
Parties to the Action or Proceedings**

SECTION 1. Parties in Interest - Every action filed with the Commission must be prosecuted in the name of the real party in interest, who may be a natural or juridical person. The person who files a complaint with the Commission seeking relief from an insurance company or mutual benefit association doing business in the Philippines for any loss, damage or liability for which an Insurer may be answerable under any kind of policy or contract of insurance, or for which such insurer maybe liable under a contract of suretyship, or for which a reinsurer may be sued under any contract of reinsurance it may have entered into, or for which a mutual benefit association may be held liable under the membership certificates it has issued to its members, shall be called the Complainant. The insurance company or mutual benefit association against whom the relief sought is directed shall be

called the Respondent.

**Rule 3
Commencement of Action
and Pleadings**

SECTION 1. Commencement of Action - Any person seeking relief from the insurance company or mutual benefit association shall file with the Commission a verified complaint stating that the allegations thereof are true of his own knowledge.

SECTION 2. Form of Pleadings; Copies - All pleadings filed with the Commission shall be legibly written or printed on legal size paper. The original and three (3) signed copies of every pleading shall be accepted by the Commission if they conform to the formal requirements provided by these Rules.

SECTION 3. Contents of Complaints - The complaint shall state the names and addresses of the parties, the substance of the claim, the date when the loss occurred, the amount of claim, the grounds of action and the relief sought.

**Rule 4
Docketing Fee**

SECTION 1. Docketing Fee - Upon filing any action or proceedings, or a permissive counterclaim or crossclaim against a co-party for any claim arising out of the same transaction or occurrence that is the subject matter of the original action or of counterclaim therein, a third party complaint and a complaint In intervention and for all services in the same, the complainant shall pay the Commission docket fee to be determined on the basis of the principal amount claimed, exclusive of interest and attorney's fee as follows, to wit:

1. If the amount of the principal claim is less than P500	P25.00
2. P500 or more but less than P5,000	50.00
3. P5,000 or more but less than P10,000	100.00
4. P10,000 or more but less than P20,000	150.00
5. P20,000 or more but less than P50,000	200.00
6. P50,000 or more but not exceeding P100,000	500.00

The amount, however, of ONE THOUSAND PESOS (P1,000.00) as docket fee shall be charged against an insurance company claiming for the recovery of the amount it has paid to its assured under its own damage cover against another insurance company.

SECTION 2. Pauper Litigant - The Commission may authorize a complainant to prosecute his action as pauper litigant upon proper showing, through verified motion that he has no means to pay the legal expenses as provided for in these Rules. Such authority once given shall include an exemption from payment of docketing and other legal fees. The legal fees shall be a lien to any judgment rendered in the case favorably to the pauper. Unless the Commission otherwise decides.

Rule 5 Answer

SECTION 1. Answer - Upon receipt of the complaint, the Commission shall forward a copy thereof to the respondent, requiring him to file his answer within fifteen (15) days from receipt thereof. The respondent must answer the complaint in writing by admitting or denying specifically the material allegations therein or alleging any lawful defense.

SECTION 2. Completeness of Service - Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of five (5) days after mailing, unless the Commission otherwise provides. Service by registered mail is complete upon actual receipt by the addressee; but if he fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect at the expiration of such time.

Rule 6 Motion to Dismiss

SECTION 1. Grounds - The respondent may within the time for filing answer, file a motion to dismiss the complaint on any of the following grounds:

- a. The Commission has no jurisdiction over the subject matter or nature of the action;
- b. Pendency of another action before the court between the same parties for the same cause of action;
- c. The complaint does not allege facts which involve any claim or complaint involving any loss, damage or liability for which the respondent may be liable under any kind of policy or membership certificate or contract of insurance or guaranty or suretyship.

SECTION 2. Disposition of Motion - The Commission, in its discretion, may deny or grant the motion or allow amendment of pleadings, or may defer determination of the motion until after hearing if the ground alleged therein does not appear to be indubitable.

SECTION 3. Time to Plead - if the motion to dismiss is denied or if determination thereof is deferred, the movant shall file his answer within the period prescribed by these Rules, computed from the time he received notice of the denial or deferment, unless the Commission provides a different period.

Rule 7
Claims Under the Compulsory Motor
Vehicle Liability Under Chapter VI of
the Insurance Code

SECTION 1. Pleadings; Hearings; Limitation on Postponements - Upon receipt of the complaint, the Commission shall forward a copy thereof to the respondent requiring him to file his answer within a non-extendible period of fifteen (15) days from service of summons, and the complainant shall file his answer to the counterclaim, if there be any, within a non-extendible period of fifteen (15) days. Immediately upon receipt of the last pleading completing the joinder of issues, or the expiration of the period for filing the same, the Commission shall set the case for hearing. On the date of hearing but before actually receiving evidence on the case, the Commission shall endeavor to settle the case amicably: Provided, that in no case shall any amicable settlement work out to give the complainant less rights, benefits, or advantage that the law grant him and provided further that a judgment approving such amicable settlement shall be immediately executory. The absence of counsel or any or both the parties shall not be a ground for postponement provided, they were duly notified.

Rule 8
Pre-Trial and Amicable Settlement

SECTION 1. Pre-Trial Conference - In any action, the Commission shall direct the parties and their counsel before the actual hearing to appear before it for a pre-trial conference to consider:

- a. the possibility of an amicable settlement;
- b. the simplification of the issues;
- c. the necessity or desirability or amendment to the pleadings;
- d. the possibility of obtaining admission or stipulation of facts;
- e. the exchange and acceptance of service of exhibits to be offered in evidence;
- f. the limitation of the number of witnesses;
- g. the admissibility and relevance of evidence proposed to be submitted by the parties;
- h. such other matters as may aid in the Just, speedy and inexpensive disposition of the case.

All the parties and their attorneys shall attend the pre-trial conference. The presence of a party is indispensable unless his counsel is authorized to enter into agreement on any or all the above matters. The parties shall inform each other of the nature and character of evidence they propose to offer, indicating the purpose of each item of evidence.

SECTION 2. Records of Pre-Trial Conference - After the pre-trial conference, the