[REVISED RULES ON EVIDENCE (RULES 128-134, RULES OF COURT), July 01, 1989]

REVISED RULES ON EVIDENCE(RULES 128-134, RULES OF COURT)

Resolution dated March 14, 1989"Bar Matter No. 411. – Re: Proposed Rules on Evidence as submitted by the Rules of Court Revision Committee on August 31, 1987. – The Court Resolved to (a) APPROVE the Proposed Rules on Evidence as submitted by the Rules of Court Revision Committee on August 31, 1987 effective July 1, 1989 and (b) cause its PUBLICATION immediately in the Official Gazette and newspapers of general circulation. Feliciano, J., is on leave.

PART IV
RULES ON EVIDENCE

RULE 128
General Provisions

SECTION 1. ***Evidence defined.*** – Evidence is the means, sanctioned by these rules, of ascertaining in a judicial proceeding the truth respecting a matter of fact. (1)

SEC. 2. ***Scope.*** – The rules of evidence shall be the same in all courts and in all trials and hearings, except as otherwise provided by law or these rules. (2a)

SEC. 3. ***Admissibility of evidence.*** – Evidence is admissible when it is relevant to the issue and is not excluded by the law or these rules. (3a)

SEC. 4. ***Relevancy; collateral matters.*** – Evidence must have such a relation to the fact in issue as to induce belief in its existence or non-existence. Evidence on collateral matters shall not be allowed, except when it tends in any reasonable degree to establish the probability or improbability of the fact in issue. (4a)

RULE 129
What Need Not be Proved

SECTION 1. ***Judicial notice, when mandatory.*** – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (1a)

SEC. 2. ***Judicial notice, when discretionary.*** – A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. (1a)

SEC. 3. ***Judicial notice, when hearing necessary.*** – During the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon. After the trial, and before judgment or on appeal, the proper court, on its own initiative or on request of a party, may take judicial notice of any matter and allow the parties to be heard thereon if such matter is decisive of a material issue in the case. (n)

SEC. 4. ***Judicial admissions.*** – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made. (2a)

RULE 130
Rules of Admissibility

A. OBJECT (REAL) EVIDENCE

SECTION 1. ***Object as evidence.*** – Objects as evidence are those addressed to the senses of the court. When an object is relevant to the fact in issue, it may be exhibited to, examined or viewed by the court. (1a)

B. DOCUMENTARY EVIDENCE

SEC. 2. Documentary evidence. – Documents as evidence consists of writings or any material containing letters, words, numbers, figures, symbols or other modes of written expressions offered as proof of their contents. (n)

1. BEST EVIDENCE RULE

SEC. 3. ***Original document must be produced; exceptions.*** – When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:(a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;(b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;(c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and(d) When the original is a public record in the custody of a public officer or is recorded in a public office. (2a)**SEC. 4.** ***Original of document.*** –(a) The original of a document is one the contents of which are the subject of inquiry.(b) When a document is in two or more copies executed at or about the same time, with identical contents, all such copies are equally regarded as originals.(c) When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are likewise equally regarded as originals. (3a)

2. SECONDARY EVIDENCE

SEC. 5. ***When original document is unavailable.*** – When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on

his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (4a)**SEC. 6.** ***When original document is in adverse party's custody or control.*** – If the document is in the custody of under the control of the adverse party, he must have reasonable notice to produce it. If after such notice and after satisfactory proof of its existence, he fails to produce the document, secondary evidence may be presented as in the case of its loss. (5a)**SEC. 7.** ***Evidence admissible when original document is a public record.*** – When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof. (2a)**SEC. 8.** ***Party who calls for document not bound to offer it.*** – A party who calls for the production of a document and inspects the same is not obliged to offer it as evidence. (6a)

3. PAROL EVIDENCE RULE

SEC. 9. ***Evidence of written agreements.*** – When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.However, a party may present evidence to modify, explain or add to the terms of the written agreement if he puts in issue in his pleading:(a) An intrinsic ambiguity, mistake or imperfection in the written agreement;(b) The failure of the written agreement to express the true intent and agreement of the parties thereto;(c) The validity of the written agreement; or(d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.The term "agreement" includes wills. (7a)

4. INTERPRETATION OF DOCUMENTS

SEC. 10. ***Interpretation of a writing according to its legal meaning.*** – The language of a writing is to be interpreted according to the legal meaning it bears in the place of its execution, unless the parties intended otherwise. (8)

SEC. 11. ***Instrument construed so as to give effect to all provisions.*** – In the construction of an instrument where there are several provisions or particulars, such a constructions is, if possible, to be adopted as will give effect to all. (9)

SEC. 12. ***Interpretation according to intention; general and particular provisions.*** – In the construction if an instrument, the intention of the parties is to be pursued; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it. (10)

SEC. 13. ***Interpretation according to circumstances.*** – For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject thereof and of the parties to it, may be shown, so that the judge may be placed in the position of those whose language he is to interpret. (11)

SEC. 14. ***Peculiar signification of terms.*** – The terms of a writing are presumed to have been used in their primary and general acceptation, but evidence is

admissible to show that they have a local, technical, or otherwise peculiar signification, and were so used and understood in the particular instance, in which case the agreement must be construed accordingly. (12)

SEC. 15. ***Written words control printed.*** – When an instrument consists partly of written words and partly of a printed form, and the two are inconsistent, the former controls the latter. (13)

SEC. 16. ***Experts and interpreters to be used in explaining certain writings.*** – When the characters in which an instrument is written are difficult to be deciphered, or the language is not understood by the court, the evidence of persons skilled in deciphering the characters, or who understand the language, is admissible to declare the characters or the meaning of the language. (14)

SEC. 17. ***Of two constructions, which preferred.*** – When the terms of an agreement have been intended in a different sense by the different parties to it, that sense is to prevail against either partly in which he supposed the other understood it, and when different constructions of a provision are otherwise equally proper, that is to be taken which is the most favorable to the party in whose favor the provision was made. (15)

SEC. 18. ***Construction in favor of natural right.*** – When an instrument is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to be adopted. (16)

SEC. 19. ***Interpretation according to usage.*** – An instrument may be construed according to usage, in order to determine its true character. (17)

C. TESTIMONIAL EVIDENCE1. QUALIFICATION OF WITNESSES

SEC. 20. ***Witnesses; their qualifications.*** – Except as provided in the next succeeding section, all persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. Religious or political belief, interest in the outcome of the case, or conviction of a crime unless otherwise provided by law, shall not be a ground for disqualification. (18a)

SEC. 21. ***Disqualification by reason of mental incapacity or immaturity.*** – The following persons cannot be witnesses: (a) Those whose mental condition, at the time of their production for examination, is such that they are incapable of intelligently making known their perception to others; (b) Children whose mental maturity is such as to render them incapable of perceiving the facts respecting which they are examined and of relating them truthfully. (19a)

SEC. 22. ***Disqualification by reason of marriage.*** – During their marriage, neither the husband nor the wife may testify for or against the other without the consent of the affected spouse, except in a civil case by one against the other, or in a criminal case for a crime committed by one against the other or the latter's direct descendants or ascendants. (20a)

SEC. 23. ***Disqualification by reason of death or insanity of adverse party.*** – Parties or assignors of parties to a case, or persons in whose behalf a case if prosecuted, against an executor or administrator or other representative of a deceased person, or against a person of unsound mind, upon a claim or demand against the estate of such deceased person or against such person of unsound mind,

cannot testify as to any matter of fact occurring before the death of such deceased person or before such person became of unsound mind. (20a)

SEC. 24. ***Disqualification by reason of privileged communication.*** – The following persons cannot testify as to matters learned in confidence in the following cases:

(a) The husband or the wife, during or after the marriage, cannot be examined without the consent of the other as to any communication received in confidence by one from the other during the marriage except in a civil case by one against the other, or in a criminal case for a crime committed by one against the other or the latter's direct descendants or ascendants;(b) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of, or with a view to, professional employment, nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of the client and his employer, concerning any fact the knowledge of which has been acquired in such capacity;(c) A person authorized to practice medicine, surgery or obstetrics cannot in a civil case, without the consent of the patient, be examined as to any advice or treatment given by him or any information which he may have acquired in attending such patient in a professional capacity, which information was necessary to enable him to act in that capacity, and which would blacken the reputation of the patient;(d) A minister or priest cannot, without the consent of the person making the confession, be examined as to any confession made to or any advice given by him in his professional character in the course of discipline enjoined by the church to which the minister or priest belongs;(e) A public officer cannot be examined during his term of office or afterwards, as to communications made to him in official confidence, when the court finds that the public interest would suffer by the disclosure. (21a)

2. TESTIMONIAL PRIVILEGE

SEC. 25. ***Parental and filial privilege.*** – No person may be compelled to testify against his parents, other direct ascendants, children or other direct descendants. (20a)

3. ADMISSIONS AND CONFESSIONS

SEC. 26. ***Admissions of a party.*** – The act, declaration or omission of a party as to a relevant fact may be given in evidence against him. (22)

SEC. 27. ***Offer of compromise not admissible.*** – In civil cases, an offer of compromise is not an admission of any liability, and is not admissible in evidence against the offerror. In criminal cases, except those involving quasi-offenses (criminal negligence) or those allowed by law to be compromised, an offer of compromise by the accused may be received in evidence as an implied admission of guilt. A plea of guilty later withdrawn, or an unaccepted offer of a plea of guilty to a lesser offense, is not admissible in evidence against the accused who made the plea or offer. An offer to pay or the payment of medical, hospital or other expenses occasioned by an injury is not admissible in evidence as proof of civil or criminal liability for the injury. (24a)