



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Updates – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., March 26, 2010

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Holiday Notice

Our offices will be closed from Thursday, April 1 to Sunday, April 4 in view of the Lenten / Easter holidays. We re-open Monday, April 5.

Our offices will again be closed on Friday, April 9 due to National Heroes Day, and re-open on Monday, April 12.

Emails will be monitored but for urgent matters please call our 24/7 mobile at 63 917 830 8384.

Mobiles of partners are posted in our website at www.delrosariolaw.com

Supreme Court rules colon cancer not compensable

Seafarer was repatriated due to colon cancer. The company doctor confirmed the diagnosis of colon cancer and opined that seafarer's condition "appears to be not work-related" but suggested a disability grading of Grade 1.

Both the Labor Arbiter and the NLRC Commission awarded \$60,000 total and permanent disability. Vessel interests brought the case all the way to the Supreme Court. Seafarer questioned the US\$60,000 arguing he was entitled to US\$80,000 based on the ITF-JSU/AMOSUP CBA.

The Supreme Court ruled that the CBA does not apply as said CBA refers only to permanent disability as a result of an accident or injury.

On the colon cancer, the Court ruled in favour of seafarer awarding \$60,000 for total and permanent disability. The Court said:

“it was sufficiently shown that his having contracted colon cancer was, at the very least, aggravated by his working conditions, taking into consideration his dietary provisions on board, his age and his job as Chief Engineer, who was primarily in charge of the technical and mechanical operations of the vessels to ensure voyage safety. ***Jurisprudence provides that to establish compensability of a non-occupational disease, reasonable proof of work-connection and not direct causal relation is required. Probability, not the ultimate degree of certainty, is the test of proof in compensation proceedings***”

Leonis Navigation Co., Inc. and World Marine Panama, S.A., vs. Catalino U. Villamater and/or The Heirs of the Late Catalino U. Villamater, represented herein by Sonia Mayuyu Villamater; and the National Labor Relations Commission; G.R. No. 179169; Third Division; March 3, 2010 ; Supreme Court Associate Justice Antonio Eduardo B. Nachura, Ponente.

Update on the Amendments to the Migrant Workers Act (RA No. 10022)

The Committee on Overseas Workers Affairs of the House of Representatives convened a “Consultative Meeting” on 24 March 2010 to clarify some provisions of the new law. The meeting was presided over by the Committee Secretary, Atty. Christopher Lomibao and attended by all the Chiefs of Staff of the Members of Congress who authored the law. Likewise, the stakeholders such as but not limited to the following: Commission on Filipino Overseas Workers, Department of Labor and Employment, NLRC, POEA, Department of Health, Department of Foreign Affairs, representatives from the land-based and sea-based sectors, PEME doctors, representatives from insurance companies, non-government organizations, were invited and participated in the meeting. During the meeting, the stakeholders raised their concerns and apprehensions on the new law. However, they were informed that the law has already passed and can only be changed through the passage of another law.

The Committee set another meeting on 7 April 2010 to complete the discussion on the new law. Incidentally, the new law has not been published in a newspaper of general circulation. There is also no schedule as to when the Implementing Rules and Regulations (IRR) will be drafted. Thus the law is not yet in effect as the law requires publication and the IRR to be effectively implemented.

Update on Anti-Piracy Training

POEA Advisory No. 09 Series of 2010 issued on 12 March 2010 states that:

The Anti-Piracy Awareness Seminar shall only be taken once and prior to the deployment of seafarers. Seafarers who have attended the mandatory anti-piracy awareness seminar upon the implementation of the Circular shall no longer be required to take another seminar every time they leave for overseas assignment.

The seminar may be done in-house. Those agents with no in-house facilities may avail of the POEA approved training module provided by other manning agencies. The POEA has not acknowledged the anti-piracy training seminar module of training centers.

*“The Philippines’ top shipping firm, **Del Rosario & Del Rosario** has a wealth of talent at its disposal.”*

from Asia-Pacific, The Legal 500, 2009-2010, p. 341

This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email ruben.delrosario@delrosario-pandiphil.com.

This publication is sent from time to time to clients and friends. To unsubscribe, reply to this email and put "[unsubscribe](#)" in the subject.

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