



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Updates – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., December 12, 2007

### **This issue contains the following:**

**Supreme Court upholds findings of company doctor**

**Season's Greetings and Holiday Notice**

### **Supreme Court upholds findings of company doctor**

For the third time, the Supreme Court has ruled that it is the company-designated physician who must determine seafarer's disability. In the recent case of *Cadornigara vs. NLRC, G.R. No. 158073*, the Court ruled that under Section 20-B of the POEA Standard Employment Contract, it is the company-designated physician who must certify that the seafarer suffered a permanent disability, whether total or partial, due to either injury or illness, during the term of his employment. While the certification of the company physician may be contested, the seafarer must indicate facts or evidence of record to contradict such finding or present the contrary opinion of his appointed physician.

In *Cadornigara*, the seafarer's treatment lasted for 96 days after which he has declared fit to work. Seafarer did not contest the findings of the company physician with that of his own doctor. He allegedly continued to undergo therapy and rehabilitation after he was declared fit to work but seafarer never presented the medical certification of such treatment.

The case was decided under the old POEA contract but the company-designated physician provisions are basically the same as the new contract. The two other decisions which upheld the company-designated physicians' findings are: *German Marine Agencies Inc. vs. NLRC, G.R. No. 142049*, January 30, 2001 and *Sarocam vs. Interorient Maritime, G.R. No. 167813*, June 27, 2006.

*Cadornigara vs. NLRC, et. al., G.R. No. 158073, Third Division, November 23, 2007, Justice Austria-Martinez, Ponente (Attys. Dennis Acaban and Herbert Tria of Del Rosario & Del Rosario handled for vessel interests).*

### **Season's Greetings / Holiday Notice**

To clients and friends,

In lieu of Christmas cards, we have donated in your name to the Church of the Poor Apostolate (COPA) of the St. James the Great Parish. COPA helps the 100 poorest parishes in the Philippines. We have also donated to Tuloy Foundation which helps street children in Metro Manila. These children are provided a home, education and their daily needs.

As Del Rosario enters its 31st year, we thank all who have continually given us their trust and confidence. We always strive to live up to expectations.

We extend our very Merry Christmas to all and may the coming year be both peaceful and prosperous.

For and in behalf of all of us at Del Rosario,

Ruben Del Rosario / Arturo Del Rosario

### **Holiday Notice**

*Aside from the weekends, our offices will be closed:*

**Monday, 24 December; Tuesday, 25 December; Wednesday, 26 December; Monday, 31 December; and Tuesday, 1 January.**

*Emails will be monitored but for urgent assistance, please call our:*

**24/7 mobile, 63 917 830 8384**

*Our website [www.delrosariolaw.com](http://www.delrosariolaw.com) has partners' emergency numbers.*

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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](mailto:ruben.delrosario@delrosario-pandiphil.com).

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