



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

## **Philippine Shipping Update – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., May 21, 2012 (Issue 2012/07)

### **Supreme Court reiterates that company-designated physician determines degree of disability or fitness to work**

Seafarer was hired as cook and was repatriated when he experienced chest pains and leg cramps. He was diagnosed by the company-designated doctors to be suffering from enlargement of the heart and hypertension. On August 25, 2000, and after two months of treatment, seafarer was declared fit to return to work by the company-designated physician. On September 8, 2000, he executed a quitclaim and acknowledged receipt of US\$1,136.67 corresponding to his sickness allowance. However, on November 7, 2001, seafarer filed a claim for full disability benefits, moral and exemplary damages and attorney's fees and claimed that his illness continued to worsen despite the fit to work assessment of the company-designated physician. Seafarer presented two medical certificates from his appointed physicians who found him to be suffering from disability ratings of Grade 5 and Grade 3 and declared him unfit to work.

The Labor Arbiter dismissed the complaint. Upon appeal, the NLRC initially modified the decision of the Labor Arbiter and awarded US\$3,360.00 in disability benefits. Later on, the NLRC again modified its decision and awarded US\$39,180.00 to the seafarer based on the grade "3" disability issued by his personal doctor. Upon petition, the Court of Appeals reversed the decision of the NLRC and reinstated the decision of the Labor Arbiter.

The claim reached the Supreme Court and the ruling of the Labor Arbiter and the Court of Appeals were sustained. Seafarer is not entitled to disability benefits.

#### ***The medical reports of petitioner's physicians do not deserve any credence as against the fit to work assessment of the company-designated physician***

The court ruled that under the POEA Contract, it is the company-designated physician who must determine the degree of disability or fitness to work. However, the Supreme Court in other cases held that in the event of serious doubts as to the diagnosis of the company-designated physician, resort to the prognosis of other doctors is proper. In the event of dispute, it is still for the courts to determine and weigh the credibility of the medical findings of the doctors. The Supreme Court upheld the findings of the company-designated doctor and held:

"We hold that the CA is correct in ruling thus. The company-designated physician has cleared petitioner (seafarer) for employment resumption after two months of continuous treatment and after medication has successfully controlled his hypertension. As aptly held by the CA, the extensive medical

attention given by the company-designated physician to petitioner (seafarer) enabled the former to acquire a detailed knowledge and familiarity of petitioner's (seafarer's) medical condition. This enabled the company-designated physician to arrive at a more accurate prognosis of petitioner's disability as compared to other physicians not privy to petitioner's (seafarer's) case from the beginning. It has been held that the doctor who have had a personal knowledge of the actual medical condition, having closely, meticulously and regularly monitored and actually treated the seafarer's illness, is more qualified to assess the seafarer's disability.

On the other hand, the medical reports of Dr. Vicaldo and Dr. Caja were issued after petitioner (seafarer) consulted each of them only once. Clearly, said physicians did not have the chance to closely monitor petitioner's (seafarer's) illness. Moreover, Dr. Vicaldo's evaluation of petitioner's (seafarer's) illness was unsupported by any proof or basis. While he diagnosed petitioner (seafarer) to be suffering from "Hypertensive Cardiovascular Disease, Concentric Left Ventricular Hypertrophy, Lateral Wall Ischemic" and suggested an "Impediment Grade V (58-96%)," no justification for such assessment was provided for in the medical certificate he issued. Similarly, Dr. Caja's medical report contained no supporting proof but was rather based on the findings of past examinations done by the company-designated physician, as well as on the statements supplied to her by the petitioner (seafarer). In *Coastal Safety Marine Services Inc. v. Esguerra*, this Court brushed aside the medical certifications upon which the seafarer therein anchored his claim for disability benefits for being unsupported by diagnostic tests and procedures as would effectively dispute the results of the medical examination earlier made upon him in a foreign clinic referred by his employer."

***It took the seafarer more than one year to file a claim for disability benefits.***

The Supreme Court further denied the claim as the claim was filed more than one year after the company-designated physician had issued a fit to work assessment. It was held:

"Likewise significant is the fact that it took petitioner (seafarer) more than a year before disputing the declaration of fitness to work by the company-designated physician. Petitioner filed a claim for disability benefit on the basis of Dr. Vicaldo and Dr. Caja's medical certifications which were issued after five and 10 months, respectively, from the company-designated physician's declaration of fit to work. Unfortunately, apart from the reasons already stated, these certifications could not be given any credence as petitioner's (seafarer's) health condition could have changed during the interim period due to different factors such as petitioner's (seafarer's) poor compliance with his medications as in fact mentioned by Dr. Caja in the medical certificate she issued. As such, the said medical certifications cannot effectively controvert the fit to work assessment earlier made."

***The seafarer executed a quitclaim in favor of the company.***

The Supreme Court also upheld the quitclaim signed by the seafarer and held:

"Furthermore, petitioner voluntarily executed a release and quitclaim in respondents' favor right after the assessment of the company-designated physician and receipt of his sickness allowance. Indeed, quitclaims executed by employees are commonly frowned upon as being contrary to public policy. But where the person making the waiver has done so voluntarily, with a full understanding thereof, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as being a valid and binding undertaking. Contrary to petitioner's contention, the amount of US\$1,136.67 he received is reasonable enough to cover his sickness allowance for two months of treatment under the care of respondents' physician. We, therefore, find no reason to invalidate the quitclaim."

*Daniel Ison vs. Crewserve Inc., Antonio Galvez, Jr. and Marlow Navigation Co., Ltd., ; G.R. No. 173951 ; First Division ; April 16, 2012 ; Associate Justice Mariano Del Castillo, Ponente*

-----

***“Few will dispute Del Rosario & Del Rosario’s position as the Philippines’ leading maritime law firm.” from Asia-Pacific, The Legal 500, 2012, p. 388***

***“This unparalleled shipping firm remains at the forefront of the market.” “They are in a league of their own.” “They are the runaway leaders in shipping.” Chambers Asia Pacific, 2012 p. 832***

-----  
*Social Networking Sites*



Twitter ID: delrosariopandi



Facebook Page: DelRosarioLaw

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).

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

---

**Del Rosario Pandiphil Inc. / Del Rosario & Del Rosario**

**Office Address:** 15th Floor, Pacific Star Building, Makati Avenue, 1200 Makati City, Philippines

**Telephone:** 63 2 810 1791 \* **Fax:** 63 2 817 1740/ 63 2 810 3632

**24/7 Emergency Mobile:** (63) (917) 830-8384; [mail@delrosario-pandiphil.com](mailto:mail@delrosario-pandiphil.com); [www.delrosario-pandiphil.com](http://www.delrosario-pandiphil.com)

