



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

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

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., October 2, 2012 (Issue 2012/14)

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### **Supreme Court grants total and permanent disability compensation as seafarer declared fit to work after 240 days**

A seaman figured in an accident while conducting routine emergency drills on 1 March 1999. He was eventually repatriated on 13 March 1999 and was referred to the company-designated physician for examination and treatment. On 11 February 2000, the seaman was declared fit to work by the company-designated physician but he refused to sign his certificate of fitness to work. Prior to being declared fit to work, the seaman already filed a complaint with the NLRC for payment of disability benefits, medical expenses, damages, and attorney's fees. He claimed entitlement to permanent total disability benefits as more than 120 days had passed since he was repatriated for medical treatment but he was yet to be declared fit to work by the company-designated physician.

The Labor Arbiter ruled in favor of the seaman and awarded US\$60,000 disability benefits

The NLRC reversed the decision of the Labor Arbiter and dismissed the complaint as seaman was declared fit to work.

The Court of Appeals reinstated the decision of the Labor Arbiter with respect to the award of disability benefits as seaman was unable to work for more than 120 days and thus considered as totally and permanently disabled.

The Supreme Court sustained the Court of Appeals but applying the 240 day principle.

The Court again quoted the ruling in Vergara v. Hammonia Maritime Services, Inc. that for the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA SEC and the applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.

The Court ruled that it was more than 11 months or approximately 335 days have lapsed from the repatriation of the seaman up to the time he was declared fit to work. ***It is evident that the maximum 240-day medical treatment period expired without a declaration of the respondent's fitness to work or the existence of his permanent disability determined.*** Seaman's temporary total disability therefore should be deemed permanent and thus, he is entitled to permanent total disability benefits.

*Fair Shipping Corp and/or Kohyu Marine Co., Ltd. Vs. Joselito Medel; G.R. No. 177907; First Division, August 29, 2012; AJ Teresita Leonardo-De Castro, Ponente*

## **Del Rosario New Hires / Promotion**

### **New Associates**

Catherine S. Panaguition, a 2004 Bachelor of Arts in Sociology graduate of University of the Philippines, Diliman, Quezon City and a 2011 Juris Doctor of Laws graduate of the same school.

Therese Anne D. Cunanan, a 2007 Bachelor of Science in Business Administration graduate of University of the Philippines, Diliman, Quezon City and a 2011 Juris Doctor of Laws graduate of the same school.

Julius A. Yano, a 2007 Bachelor of Arts in Political Science, minor in Hispanic Studies graduate of Ateneo De Manila University, Quezon City, and a 2011 Juris Doctor of Laws graduate of University of the Philippines, College of Law, Diliman, Quezon City.

### **Promotion**

Razelle N. España, was promoted from Claims Assistant to Junior Claims Executive effective September 25, 2012.

### **New Claims Assistants**

Ma. Patricia Beatriz H. Costales, a 2012 Bachelor of Arts in International Studies, major in European Studies graduate of De La Salle University – Manila.

Precious Lovelle C. Achas, a 2012 Bachelor of Science in Legal Management graduate of San Beda College, Mendiola

### **New Paralegals**

Joeanna Mhay D. Garcia, a 2009 Bachelor of Science in Legal Management graduate of San Beda College, Alabang.

Ma. Cristina Rae E. Magsano, a 2012 Bachelor of Arts in Political Science graduate of the University of Santo Tomas, Manila.

Ma. Daloren D. Bautista, a 2012 Bachelor of Arts in Mass Communication graduate of Adamson University

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***“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***  
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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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