



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., December 5, 2012 (Issue 2012/18)

In this issue:

Findings of company-designated doctor upheld by the Supreme Court

Holiday Notice

Redesigned DelRosarioLaw Website

Findings of company-designated doctor upheld by the Supreme Court

Seafarer was hired as chief cook on June 23, 2003. During the latter part of his extended contract, he was diagnosed with umbilical hernia. He was then repatriated and was referred to the company-designated physician for further medical treatment. On March 2005, seafarer was certified fit to work and signed the Deed of Release, Waiver and Quitclaim on April 2005. However, seafarer filed a complaint for the recovery of disability benefits, sickness allowance, and reimbursement of medical expenses, damages, and attorney's fees. He alleged that he could still feel the symptoms of his illness and that his private physician concluded that he was unfit to resume work as a seafarer in any capacity and was given a grade "7" disability.

The Labor Arbiter ruled that seafarer was entitled to full disability benefits as seafarer's inability to perform his work for more than 120 days constituted permanent total disability. The office also gave credence on the findings and assessment of seafarer's private physician.

The NLRC dismissed the complaint of the seafarer and gave credence to the findings of the company-designated doctor. The NLRC ruling was affirmed by the Court of Appeals.

The Supreme Court held that seafarer is not entitled to disability benefits.

The Court held that the assessment of the company-designated physician as to seafarer's medical condition deserved greater evidentiary weight than that of seafarer's private physician. The court said that the company-designated physician monitored seafarer's health status from the beginning; thus, the Court cannot simply throw out her certification. Further, the company-designated physician was the one who performed the necessary medical procedure and monitored the treatment of the seafarer. Certainly, this enabled the company-designated physician to acquire detailed knowledge of seafarer's medical condition and, thus, was in a better position to reach an accurate evaluation of his health condition and his fitness for work resumption. On the other hand, it is undisputed that the recommendation of seafarer's private physician was based on a single medical report which outlined the alleged findings and medical history of the seafarer obtained after the private doctor examined him only once. It is pristine clear that the examination and treatment of the seafarer by the company-designated physician had been more extensive than the examination conducted by seafarer's private physician.

Lastly, ***the Court ruled that seafarer already executed Deed of Release, Waiver and Quitclaim.*** By doing this, the seafarer impliedly admitted the correctness of the medical assessments and acknowledged to have completely released and forever discharged the company from all actions, claims, complaints and demand whatsoever.

Holiday Notice

Due to officially declared holidays in the Philippines, our offices will be closed on the following days;

22 December (Saturday) to 25 December (Tuesday); our offices will re-open on 26 December (Wednesday)

29 December (Saturday) to 1 January 2013 (Tuesday); our offices will re-open on 2 January 2013 (Wednesday)

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

Redesigned DelRosarioLaw Website

We are pleased to announce the launching of our re-designed website. Our website is aimed to better serve clients by providing them various information about the firm, relevant news, updates and articles of great interest. You may tour the website at www.delrosariolaw.com.

“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.

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Del Rosario & Del Rosario / Del Rosario Pandiphil, Inc.

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 mobile: (63) (917) 830-8384; mail@delrosario-pandiphil.com; www.delrosariolaw.com