

SYLLABUS FOR 2011 BAR EXAMINATIONS  
**REMEDIAL LAW**

**I. General Principles**

- A. Concept of Remedial Law
- B. Substantive Law as Distinguished from Remedial Law
- C. Rule-making Power of the Supreme Court
  - 1. Limitations on the rule-making power of the Supreme Court
  - 2. Power of the Supreme Court to amend and suspend procedural rules
- D. Nature of Philippine Courts
  - 1. Meaning of a court
  - 2. Court as distinguished from a judge
  - 3. Classification of Philippine courts
  - 4. Courts of original and appellate jurisdiction
  - 5. Courts of general and special jurisdiction
  - 6. Constitutional and statutory courts
  - 7. Courts of law and equity
  - 8. Principle of judicial hierarchy
  - 9. Doctrine of non-interference or doctrine of judicial stability

**II. Jurisdiction**

- A. Jurisdiction over the parties
  - 1. How jurisdiction over the plaintiff is acquired
  - 2. How jurisdiction over the defendant is acquired
- B. Jurisdiction over the subject matter
  - 1. Meaning of jurisdiction over the subject matter
  - 2. Jurisdiction versus the exercise of jurisdiction
  - 3. Error of jurisdiction as distinguished from error of judgment
  - 4. How jurisdiction is conferred and determined
  - 5. Doctrine of primary jurisdiction
  - 6. Doctrine of adherence of jurisdiction
  - 7. Objections to jurisdiction over the subject matter
  - 8. Effect of estoppel on objections to jurisdiction
- C. Jurisdiction over the issues
- D. Jurisdiction over the *res* or property in litigation
- E. Jurisdiction of Courts
  - 1. Supreme Court
  - 2. Court of Appeals
  - 3. Court of Tax Appeals
  - 4. Sandiganbayan
  - 5. Regional Trial Courts
  - 6. Family Courts
  - 7. Metropolitan Trial Courts/Municipal Trial Courts
  - 8. *Shariah* Courts

- F. Jurisdiction over small claims, cases covered by the rules on Summary Procedure and Barangay Conciliation
- G. Totality Rule

### III. Civil Procedure

- A. Actions
  - 1. Meaning of ordinary civil actions
  - 2. Meaning of special civil actions
  - 3. Meaning of criminal actions
  - 4. Civil actions versus Special proceedings
  - 5. Personal actions and real actions
  - 6. Local and transitory actions
  - 7. Actions *in rem*, *in personam* and *quasi in rem*
- B. Cause of Action
  - 1. Meaning of cause of action
  - 2. Right of Action versus Cause of action
  - 3. Failure to state a cause of action
  - 4. Test of the sufficiency of a cause of action
  - 5. Splitting a single cause of action and its effects
  - 6. Joinder and misjoinder of causes of action
- C. Parties to Civil Actions
  - 1. Real Parties in interest; Indispensable parties; Representatives as parties; Necessary parties; Indigent Parties; Alternative defendants
  - 2. Compulsory and permissive joinder of parties
  - 3. Misjoinder and non-joinder of parties
  - 4. Class Suit
  - 5. Suits against entities without juridical personality
  - 6. Effect of death of party litigant
- D. Venue
  - 1. Venue versus Jurisdiction
  - 2. Venue of real actions
  - 3. Venue of personal actions
  - 4. Venue of actions against non-residents
  - 5. When the Rules on Venue Do not Apply
  - 6. Effects of Stipulations on Venue
- E. Pleadings
  - 1. Kinds of Pleadings
    - a. Complaint
    - b. Answer
      - (1) Negative defenses
      - (2) Negative pregnant
      - (3) Affirmative Defenses
    - c. Counterclaims
      - (1) Compulsory counterclaim
      - (2) Permissive counterclaim
      - (3) Effect on the Counterclaim when the complaint is dismissed
    - d. Cross-claims
    - e. Third (fourth, etc.) party complaints

- f. Complaint-in-intervention
  - g. Reply
2. Pleadings allowed in small claim cases and cases covered by the rules on summary procedure
  3. Parts of a pleading
    - a. Caption
    - b. Signature and address
    - c. Verification and certification against forum-shopping
      - (1) Requirements of a corporation executing the verification/certification of non-forum shopping
    - d. Effect of the signature of counsel in a pleading
  4. Allegations in a pleading
    - a. Manner of making allegations
      - (1) Condition precedent
      - (2) Fraud, mistake, malice, intent, knowledge and other condition of the mind, judgments, official documents or acts
    - b. Pleading an actionable document
    - c. Specific denials
      - (1) Effect of failure to make specific denials
      - (2) When a specific denial requires an oath
  5. Effect of failure to plead
    1. Failure to plead defenses and objections
    2. Failure to plead a compulsory counterclaim and cross-claim
  6. Default
    - a. When a declaration of default is proper
    - b. Effect of an order of default
    - c. Relief from an order of default
    - d. Effect of a partial default
    - e. Extent of relief
    - f. Actions where default are not allowed
  7. Filing and Service of pleadings
    - I. Payment of docket fees
    - II. Filing versus service of pleadings
    - III. Periods of filing of pleadings
    - IV. Manner of filing
    - V. Modes of service
      - (1) Personal service
      - (2) Service by mail
      - (3) Substituted service
      - (4) Service of judgments, final orders or resolutions
      - (5) Priorities in modes of service and filing
      - (6) When service is deemed complete
      - (7) Proof of filing and service
  8. Amendment
    - a. Amendment as a matter of right

- b. Amendments by leave of court
- c. Formal amendment
- d. Amendments to conform to or authorize presentation of evidence
- e. Different from supplemental pleadings
- f. Effect of amended pleading

F. Summons

- 1. Nature and purpose of summons in relation to actions *in personam*, *in rem* and *quasi in rem*
- 2. Voluntary appearance
- 3. Personal service
- 4. Substituted service
- 5. Constructive service (by publication)
  - a. Service upon a defendant where his identity is unknown or where his whereabouts are unknown
  - b. Service upon residents temporarily outside the Philippines
- 6. Extra-territorial service, when allowed
- 7. Service upon prisoners and minors
- 8. Proof of service

G. Motions

- 1. Motions in general
  - a. Definition of a motion
  - b. Motions versus pleadings
  - c. Contents and form of motions
  - d. Notice of hearing and hearing of motions
  - e. Omnibus motion rule
  - f. Litigated and *ex parte* motions
  - g. Pro-forma motions
- 2. Motions for Bill of Particulars
  - a. Purpose and when applied for
  - b. Actions of the court
  - c. Compliance with the order and effect of non-compliance
  - d. Effect on the period to file a responsive pleading
- 3. Motion to Dismiss
  - a. Grounds
  - b. Resolution of Motion
  - c. Remedies of plaintiff when the complaint is dismissed
  - d. Remedies of the defendant when the motion is denied
  - e. Effect of dismissal of complaint on certain grounds
  - f. When grounds pleaded as affirmative defenses
  - g. Bar by dismissal
  - h. Distinguished from demurrer to evidence under Rule 33

H. Dismissal of Actions

- 1. Dismissal upon notice by plaintiff; Two-dismissal rule
- 2. Dismissal upon motion by plaintiff; effect on existing counterclaim

3. Dismissal due to the fault of plaintiff
4. Dismissal of counterclaim, cross-claim or third-party complaint

I. Pre-trial

1. Concept of pre-trial
2. Nature and purpose
3. Notice of pre-trial
4. Appearance of parties; effect of failure to appear
5. Pre-trial brief; effect of failure to appear
6. Distinction between pre-trial in civil case and pre-trial in criminal case
7. Alternative Dispute Resolution (ADR)

J. Intervention

1. Requisites for intervention
2. Time to intervene
3. Remedy for the denial of motion to intervene

K. Subpoena

1. Subpoena *duces tecum*
2. Subpoena *ad testificandum*
3. Service of subpoena
4. Compelling attendance of witnesses; Contempt
5. Quashing of subpoena

L. Modes of Discovery

1. Depositions pending action; Depositions before action or pending appeal
  - a. Meaning of deposition
  - b. Uses; Scope of examination
  - c. When may objections to admissibility be made
  - d. When may taking of deposition be terminated or its scope limited
2. Written interrogatories to adverse parties
  - a. Consequences of refusal to answer
  - b. Effect of failure to serve written interrogatories
3. Request for Admission
  - a. Implied admission by adverse party
  - b. Consequences of failure to answer request for admission
  - c. Effect of admission
  - d. Effect of failure to file and serve request for admission
4. Production or inspection of documents or things
5. Physical and mental examination of persons
6. Consequences of refusal to comply with modes of discovery

M. Trial

1. Adjournments and postponements
2. requisites of motion to postpone trial
  - a. for absence of evidence
  - b. for illness of party or counsel

3. Agreed statement of facts
4. Order of trial; reversal of order
5. Consolidation or Severance of hearing or trial
6. Delegation of reception of evidence
7. Trial by commissioners
  - a. Reference by consent or ordered on motion
  - b. Powers of the commissioner
  - c. Commissioner's report; notice to parties and hearing on the report

N. Demurrer to Evidence

1. Ground
2. Effect of denial
3. Effect of grant
4. Waiver of right to present evidence
5. Demurrer to evidence in a civil case versus demurrer to evidence in a criminal case

O. Judgments and Final Orders

1. Judgment without trial
2. Contents of a judgment
3. Judgment on the pleadings
4. Summary judgments
  - a. for the claimant
  - b. for the defendant
  - c. when the case not fully adjudicated
  - d. affidavits and attachments
5. Judgment on the pleadings versus summary judgments
6. Rendition of judgments and final orders
7. Entry of judgment and final order

P. Post Judgment Remedies

1. Motion for New Trial or reconsideration
  - a. Grounds
  - b. When to file
  - c. Denial of the motion; effect
  - d. Grant of the motion; effect
  - e. Remedy when motion is denied, Fresh 15-day period rule
2. Appeals in General
  - a. Judgments and final orders subject to appeal
  - b. Matters not appealable
  - c. Remedy against judgments and orders which are not appealable
  - d. Modes of appeal
    - (1) Ordinary appeal
    - (2) Petition for review
    - (3) Petition for review on *certiorari*
  - e. Issues to be raised on appeal
  - f. Period of appeal
  - g. Perfection of appeal
  - h. Appeal from judgments or final orders of the MTC

- i. Appeal from judgments or final orders of the RTC
  - j. Appeal from judgments or final orders of the CA
  - k. Appeal from judgments or final orders of the CTA
  - l. Review of final judgments or final orders of the COA
  - m. Review of final judgments or final orders of the COMELEC
  - n. Review of final judgments or final orders of the CSC
  - o. Review of final judgments or final orders of the Ombudsman
  - p. Review of final judgments or final orders of the NLRC
  - q. Review of final judgments or final orders of quasi-judicial agencies
3. Relief from judgments, orders and other proceedings
    - a. Grounds for availing of the remedy
    - b. Time to file petition
    - c. Contents of petition
  4. Annulment of Judgments or final orders and resolutions
    - a. Grounds for annulment
    - b. Period to file action
    - c. Effects of judgment of annulment
  5. Collateral attack of judgments
- Q. Execution, Satisfaction and Effect of Judgments
1. Difference between finality of judgment for purposes of appeal; for purposes of execution
  2. When execution shall issue
    - a. Execution as a matter of right
    - b. Discretionary execution
  3. How a judgment is executed
    - a. Execution by motion or by independent action
    - b. Issuance and contents of a writ of execution
    - c. Execution of judgments for money
    - d. Execution of judgments for specific acts
    - e. Execution of special judgments
    - f. Effect of levy on third persons
  4. Properties exempt from execution
  5. Proceedings where property is claimed by third persons
    - a. in relation to third party claim in attachment and replevin
  6. Rules on Redemption
  7. Examination of Judgment Obligor When Judgment is unsatisfied
  8. Examination of Obligor of Judgment Obligor
  9. Effect of Judgment or Final Orders
  10. Enforcement and Effect of Foreign Judgments or Final Orders

- R. Provisional Remedies
  - 1. Nature of provisional remedies
  - 2. Jurisdiction over provisional remedies
  - 3. Preliminary Attachment
    - a. Grounds for issuance of writ of attachment
    - b. Requisites
    - c. Issuance and contents of order of attachment; affidavit and bond
    - d. Rule on prior or contemporaneous service of summons
    - e. Manner of attaching real and personal property; when property attached is claimed by third person
    - f. Discharge of attachment and the counter-bond
    - g. Satisfaction of judgment out of property attached
  - 4. Preliminary Injunction
    - a. Definitions and Differences: Preliminary Injunction and Temporary Restraining Order
    - b. Requisites
    - c. Kinds of Injunction
    - d. When writ may be issued
    - e. Grounds for issuance of preliminary injunction
    - f. Grounds for objection to, or for the dissolution of injunction or restraining order
    - g. Duration of TRO
    - h. In relation to RA 8975, Ban on issuance of TRO or Writ of Injunction in cases involving government infrastructure projects
    - i. Rule on prior or contemporaneous service of summons in relation to attachment
  - 5. Receivership
    - a. Cases when receiver may be appointed
    - b. Requisites
    - c. Requirements before issuance of an Order
    - d. General powers of a receiver
    - e. Two (2) kinds of bonds
    - f. Termination of receivership
  - 6. Replevin
    - a. When may writ be issued
    - b. Requisites
    - c. Affidavit and bond; Redelivery Bond
    - d. Sheriff's duty in the implementation of the writ; when property is claimed by third party
- S. Special Civil Actions
  - 1. Nature of special civil actions
  - 2. Ordinary civil actions versus special civil actions
  - 3. Jurisdiction and venue
  - 4. Interpleader
    - a. Requisites for interpleader
    - b. When to file



5. Declaratory Reliefs and Similar Remedies
  - a. Who may file the action
  - b. Requisites of action for declaratory relief
  - c. When court may refuse to make judicial declaration
  - d. Conversion to ordinary action
  - e. Proceedings considered as similar remedies
    - A. Reformation of an instrument
    - B. Consolidation of ownership
    - C. Quieting of title to real property
  
6. Review of Judgments and Final Orders or Resolution of the COMELEC and COA
  - a. Application of Rule 65 under Rule 64
  - b. Distinction in the application of Rule 65 to judgments of the COMELEC and COA and the application of Rule 65 to other tribunals, persons and officers
  
7. *Certiorari*, Prohibition and *Mandamus*
  - a. Definitions and distinctions
  - b. Requisites
  - c. When petition for *certiorari*, prohibition and *mandamus* is proper
  - d. Injunctive relief
  - e. *Certiorari* distinguished from Appeal by *Certiorari*; Prohibition and *Mandamus* distinguished from Injunction; when and where to file petition
  - f. Exceptions to filing of motion for reconsideration before filing petition
  - g. Reliefs petitioner is entitled to
  - h. Actions/Omissions of MTC/RTC in election cases
  - i. Where to file petition
  - j. Effects of filing of an unmeritorious petition
  
8. *Quo Warranto*
  - a. Distinguish from *Quo Warranto* in the Omnibus Election Code
  - b. When government commence an action against individuals
  - c. When individual may commence an action
  - d. Judgment in *Quo Warranto* action
  - e. Rights of a person adjudged entitled to public office
  
9. Expropriation
  - a. Matters to allege in complaint for expropriation
  - b. Two stages in every action for expropriation
  - c. When plaintiff can immediately enter into possession of the real property, in relation to RA 8974
  - d. New system of immediate payment of initial just compensation
  - e. Defenses and objections

- f. Order of Expropriation
  - g. Ascertainment of just compensation
  - h. Appointment of Commissioners; Commissioner's report; Court action upon commissioner's report
  - i. Rights of plaintiff upon judgment and payment
  - j. Effect of recording of judgment
10. Foreclosure of Real Estate Mortgage
- a. Judgment on foreclosure for payment or sale
  - b. Sale of mortgaged property; effect
  - c. Disposition of proceeds of sale
  - d. Deficiency judgment
    - (1) Instances when court cannot render deficiency judgment
  - e. Judicial foreclosure versus extrajudicial foreclosure
  - f. Equity of redemption versus right of redemption
11. Partition
- a. Who may file complaint; who should be made defendants
  - b. Matters to allege in the complaint for partition
  - c. Two (2) stages in every action for partition
  - d. Order of partition and partition by agreement
  - e. Partition by commissioners; Appointment of commissioners, Commissioner's report; Court action upon commissioner's report
  - f. Judgment and its effects
  - g. Partition of personal property
  - h. Prescription of action
12. Forcible Entry and Unlawful Detainer
- a. Definitions and Distinction
  - b. Distinguished from *accion publiciana* and *accion reivindicatoria*
  - c. How to determine jurisdiction in *accion publiciana* and *accion reivindicatoria*
  - d. Who may institute the action and when; against whom the action may be maintained
  - e. Pleadings allowed
  - f. Action on the complaint
  - g. When demand is necessary
  - h. Preliminary injunction and preliminary mandatory injunction
  - i. Resolving defense of ownership
  - j. How to stay the immediate execution of judgment
  - k. Summary procedure, prohibited pleadings
13. Contempt
- a. Kinds of contempt
  - b. Purpose and nature of each
  - c. Remedy against direct contempt; penalty
  - d. Remedy against indirect contempt; penalty
  - e. How contempt proceedings are commenced

- f. Acts deemed punishable as indirect contempt
- g. When imprisonment shall be imposed
- h. Contempt against quasi-judicial bodies

#### **IV. Special Proceedings**

- A. Settlement of Estate of Deceased Persons, Venue and Process
  - 1. Which court has jurisdiction
  - 2. Venue in judicial settlement of estate
  - 3. Extent of jurisdiction of Probate Court
  - 4. Powers and Duties of Probate Court
  
- B. Summary Settlement of Estates
  - 1. Extrajudicial settlement by agreement between heirs, when allowed
  - 2. Two-year prescriptive period
  - 3. Affidavit of Self-adjudication by sole heir
  - 4. Summary settlement of estates of small value, when allowed
  - 5. Remedies of aggrieved parties after extra-judicial settlement of estate
  
- C. Production and Probate of Will
  - 1. Nature of probate proceeding
  - 2. Who may petition for probate; persons entitled to notice
  
- D. Allowance or Disallowance of Will
  - 1. Contents of petition for allowance of will
  - 2. Grounds for disallowing a will
  - 3. Reprobate; Requisites before will proved outside allowed in the Philippines; effects of probate
  
- E. Letters Testamentary and of Administration
  - 1. When and To whom letters of administration granted
  - 2. Order of preference
  - 3. Opposition to issuance of letters testamentary; simultaneous filing of petition for administration
  - 4. Powers and duties of Executors and Administrators; restrictions on the powers
  - 5. Appointment of Special Administrator
  - 6. Grounds for removal of administrator
  
- F. Claims Against the Estate
  - 1. Time within which claims shall be filed; exceptions
  - 2. Statute of Non-claims
  - 3. Claim of Executor or administrator against the Estate
  - 4. Payment of Debts
  
- G. Actions by and against Executors and Administrators
  - 1. Actions that may be brought against executors and administrators
  - 2. Requisites before creditor may bring an action for recovery of property fraudulently conveyed by the deceased

- H. Distribution and Partition
  - 1. Liquidation
  - 2. Project of Partition
  - 3. Remedy of an heir entitled to residue but not given his share
  - 4. Instances when probate court may issue writ of execution
  
- I. Trustees
  - 1. Distinguished from executor/administrator
  - 2. Conditions of the Bond
  - 3. Requisites for the removal and resignation of a trustee
  - 4. Grounds for removal and resignation of a trustee
  - 5. Extent of authority of trustee
  
- J. Escheat
  - 1. When to file
  - 2. Requisites for filing of petition
  - 3. Remedy of respondent against petition; period for filing a claim
  
- K. Guardianship
  - 1. General powers and duties of guardians
  - 2. Conditions of the bond of the guardian
  - 3. Rule on Guardianship over minor
  
- L. Adoption
  - 1. Distinguish domestic adoption from inter-country adoption
  - 2. Domestic Adoption Act
    - a. effects of adoption
    - b. instances when adoption may be rescinded
    - c. effects of rescission of adoption
  - 3. Inter-country Adoption
    - a. when allowed
    - b. functions of the RTC
    - c. “best interest of the minor” standard
  
- M. Writ of *Habeas Corpus*
  - 1. Contents of the petition
  - 2. Contents of the Return
  - 3. Distinguish peremptory writ from preliminary citation
  - 4. When not proper/applicable
  - 5. When writ disallowed/discharged
  - 6. Distinguish from writ of *Amparo* and *Habeas Data*
  - 7. Rules on Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors (AM No. 03-04-04-SC)
  
- N. Writ of *Amparo* (AM No. 07-9-12-SC)
  - 1. Coverage
  - 2. Distinguish from habeas corpus and habeas data
  - 3. Differences between Amparo and search warrant
  - 4. Who may file
  - 5. Contents of return

6. Effects of failure to file return
7. Omnibus waiver rule
8. Procedure for hearing
9. Institution of separate action
10. Effect of filing of a criminal action
11. Consolidation
12. Interim reliefs available to petitioner and respondent
13. Quantum of proof in application for issuance of writ of *Amparo*

O. Writ of *Habeas Data* (AM No. 08-1-16-SC)

1. Scope of writ
2. Availability of writ
3. Distinguish from *Habeas Corpus* and *Amparo*
4. Who may file
5. Contents of the petition
6. Contents of return
7. Instances when petition be heard in chambers
8. Consolidation
9. Effect of filing of a criminal action
10. Institution of separate action
11. Quantum of proof in application for issuance of writ of *Amparo*

P. Change of Name

1. Differences under Rule 103, RA 9048 and Rule 108
2. Grounds for change of name

Q. Absentees

1. Purpose of the Rule
2. Who may file; when to file

R. Cancellation or Correction of Entries in the Civil Registry

1. Entries subject to cancellation or correction under Rule 108, in relation to RA 9048

S. Appeals in Special Proceeding

1. Judgments and orders for which appeal may be taken
2. When to appeal
3. Modes of appeal
4. Rule on Advance Distribution

**V. Criminal Procedure**

A. General Matters

1. Distinguish Jurisdiction over subject matter from jurisdiction over person of the accused
2. Requisites for exercise of criminal jurisdiction
3. Jurisdiction of Criminal courts
4. When injunction may be issued to restrain criminal prosecution

B. Prosecution of Offenses

1. Criminal actions, how instituted
2. Who may file them, crimes that cannot be prosecuted *de officio*

3. Criminal actions, when enjoined
  4. Control of prosecution
  5. Sufficiency of Complaint or Information
  6. Designation of Offense
  7. Cause of the Accusation
  8. Duplicity of the Offense; Exception
  9. Amendment or Substitution of complaint or information
  10. Venue of criminal actions
  11. Intervention of offended party
- C. Prosecution of Civil Action
1. Rule on implied institution of civil action with criminal action
  2. When civil action may proceed independently
  3. When separate civil action is suspended
  4. Effect of the death of accused or convict on civil action
  5. Prejudicial Question
  6. Rule on Filing Fees in civil action deemed instituted with the criminal action
- D. Preliminary Investigation
1. Nature of right
  2. Purposes of preliminary investigation
  3. Who may conduct determination of existence of probable cause
  4. Resolution of investigation prosecutor
  5. Review
  6. When warrant of arrest may issue
  7. Cases not requiring a preliminary investigation
  8. Remedies of accused if there was no preliminary investigation
  9. Inquest
- E. Arrest
1. Arrest, how made
  2. Arrest without warrant, when lawful
  3. Method of arrest
    - a. by officer with warrant
    - b. by officer without warrant
    - c. by private person
  4. Requisites of a valid warrant of arrest
  5. Determination of Probable Cause for issuance of warrant of arrest
  6. Distinguish probable cause of fiscal from that of a judge
- F. Bail
1. Nature
  2. When a matter of right; exceptions
  3. When a matter of discretion
  4. Hearing of application for bail in capital offenses
  5. Guidelines in fixing amount of bail
  6. Bail when not required
  7. Increase or Reduction of Bail

8. Forfeiture and Cancellation of bail
  9. Application not a bar to objections in illegal arrest, lack of or irregular preliminary investigation
  10. Hold Departure Order & Bureau of Immigration Watchlist
- G. Rights of the Accused
1. Rights of accused at the trial
  2. Rights of persons under Custodial Investigation
- H. Arraignment and Plea
1. Arraignment and Plea, how made
  2. When should plea of NOT GUILTY be entered
  3. When may accused enter a plea of guilty to a lesser offense
  4. Accused plead guilty to capital offense, what the court should do
  5. Searching Inquiry
  6. Improvident plea
  7. Grounds for suspension of arraignment
- I. Motion to Quash
1. Grounds
  2. Distinguish from demurrer to evidence
  3. Effects of sustaining the motion to quash
  4. Exception to the rule that sustaining the motion is not a bar to another prosecution
  5. Double Jeopardy
  6. Provisional Dismissal
- J. Pre-trial
1. Matters to be considered during pre-trial
  2. What the court should do when prosecution and offended party agree to the plea offered by the accused
  3. Pre-trial agreement
  4. Non-appearance during pre-trial
  5. Pre-trial order
  6. Referral of some cases for Court Annexed Mediation and Judicial Dispute Resolution
- K. Trial
1. Instances when presence of accused is required by law
  2. Requisite before trial can be suspended on account of absence of witness
  3. Trial in *Absentia*
  4. Remedy when accused is not brought to trial within the prescribed period
  5. Requisites for discharge of accused to become a state witness
  6. Effects of Discharge of accused as state witness
  7. Demurrer to Evidence
- L. Judgment
1. Requisites of a judgment
  2. Contents of Judgment

3. Promulgation of judgment; instances of promulgation of judgment in *absentia*
4. When does judgment become final (four instances)

M. New Trial or Reconsideration

1. Grounds for New Trial
2. Grounds for Reconsideration
3. Requisites before a new trial may be granted on ground of newly discovered evidence
4. Effects of granting a new trial or reconsideration
5. Application of *Neypes Doctrine* in Criminal Cases

N. Appeal

1. Effect of an Appeal
2. Where to appeal
3. How appeal taken
4. Effect of appeal by any of several accused
5. Grounds for dismissal of appeal

O. Search and Seizure

1. Nature of search warrant
2. Distinguish from warrant of arrest
3. Application for search warrant, where filed
4. Probable Cause
5. Personal examination by judge of the applicant and witnesses
6. Particularity of place to be searched and things to be seized
7. Personal property to be seized
8. Exceptions to search warrant requirement
  - a. Search incidental to lawful arrest
  - b. Consented Search
  - c. Search of moving vehicle
  - d. Check points; body checks in airport
  - e. Plain view situation
  - f. Stop and Frisk situation
  - g. Enforcement of Custom Laws
9. Remedies from unlawful search and seizure

P. Provisional Remedies

1. Nature
2. Kinds of provisional remedies

**VI. Evidence**

A. General Principles

1. Concept of Evidence
2. Scope of the Rules of Evidence
3. Evidence in Civil Cases Versus Evidence in Criminal Cases
4. Proof Versus Evidence
5. Factum Probans Versus Factum Probandum
6. Admissibility of Evidence
  - a. Requisites for admissibility of evidence
  - b. Relevance of evidence and collateral matters



- c. Multiple admissibility
  - d. Conditional admissibility
  - e. Curative admissibility
  - f. Direct and circumstantial evidence
  - g. Positive and negative evidence
  - h. Competent and credible evidence
- 7. Burden of Proof and Burden of Evidence
  - 8. Presumptions
    - a. Conclusive presumptions
    - b. Disputable presumptions
  - 9. Liberal Construction of the Rules of Evidence
  - 10. Quantum of Evidence (Weight And Sufficiency of Evidence)
    - a. Proof beyond reasonable doubt
    - b. Preponderance of evidence
    - c. Substantial evidence
    - d. Clear and convincing evidence
- B. Judicial Notice and Judicial Admissions
- 1. What Need Not be Proved
  - 2. Matters of Judicial Notice
    - a. Mandatory
    - b. Discretionary
  - 3. Judicial Admissions
    - a. Effect of judicial admissions
    - b. How judicial admissions may be contradicted
  - 4. Judicial Notice of Foreign Laws, Law of Nations and Municipal Ordinance
- C. Object (Real) Evidence
- 1. Nature of Object Evidence
  - 2. Requisites for Admissibility
  - 3. Categories of Object Evidence
  - 4. Demonstrative Evidence
  - 5. View of an Object or Scene
  - 6. Chain of Custody in Relation to Section 21 of the Comprehensive Dangerous Drugs Act of 2002
  - 7. Rule on DNA Evidence (A.M. No. 06-11-5-SC)
    - a. Meaning of DNA
    - b. Applicable for DNA testing order
    - c. Post-conviction DNA testing; remedy
    - d. Assessment of probative value of DNA evidence and admissibility
    - e. Rules on evaluation of reliability of the DNA testing Methodology
- D. Documentary Evidence
- 1. Meaning of Documentary Evidence
  - 2. Requisites for Admissibility
  - 3. Best Evidence Rule
    - a. Meaning of the rule
    - b. When applicable
    - c. Meaning of original

- d. Requisites for introduction of secondary evidence
- 4. Rules on Electronic Evidence (A.M. No. 01-7-01-SC)
  - a. Meaning of electronic evidence; electronic data message
  - b. Probative value of electronic documents or evidentiary weight; method of proof
  - c. Authentication of electronic documents and electronic signatures
  - d. Electronic documents and the hearsay rule
  - e. Audio, photographic, video and ephemeral evidence
- 5. Parol Evidence Rule
  - a. Application of the parol evidence rule
  - b. When parole evidence can be introduced
  - c. Distinctions between the best evidence rule and parol evidence rule
- 6. Authentication and Proof of Documents
  - a. Meaning of authentication
  - b. Public and private documents
  - c. When a private writing requires authentication; proof of a private writing
  - d. When evidence of authenticity of a private writing is not required (ancient documents)
  - e. How to prove genuineness of a handwriting
  - f. Public documents as evidence; proof of official record
  - g. Attestation of a copy
  - h. Public record of a public document
  - i. Proof of lack of record
  - j. How a judicial record is impeached
  - k. Proof of notarial documents
  - l. How to explain alterations in a document
  - m. Documentary evidence in an unofficial language
- E. Testimonial Evidence
  - 1. Qualifications of a Witness
  - 2. Competency Versus Credibility of a Witness
  - 3. Disqualifications of Witnesses
    - a. Disqualification by reason of mental capacity or immaturity
    - b. Disqualification by reason of marriage
    - c. Disqualification by reason of death or insanity of adverse party
    - d. Disqualification by reason of privileged communications
      - (1) Husband and wife
      - (2) Attorney and client
      - (3) Physician and patient
    - D. Priest and penitent
    - E. Public officers

- e. Parental and filial privilege rule
- 4. Examination of a Witness
  - a. Rights and obligations of a witness
  - b. Order in the examination of an individual witness
    - (1) Direct examination
    - (2) Cross examination
    - (3) Re-direct examination
    - (4) Re-cross examination
    - (5) Recalling the witness
  - c. Leading and misleading questions
  - d. Methods of impeachment of adverse party's witness
  - e. How the witness is impeached by evidence of inconsistent statements (laying the predicate)
- VI. Evidence of the good character of a witness
- 5. Admissions and Confessions
  - a. *Res inter alios acta* rule
  - b. Admission by a party
  - c. Admission by a third party
  - d. Admission by a co-partner or agent
  - e. Admission by a conspirator
  - f. Admission by privies
  - g. Admission by silence
  - h. Confessions
  - i. Similar acts as evidence
- 6. Hearsay Rule
  - a. Meaning of hearsay
  - b. Reason for exclusion of hearsay evidence
  - c. Exceptions to the hearsay rule
    - (1) Dying declaration
    - (2) Declaration against interest
    - (3) Act or declaration about pedigree
    - (4) Family reputation or tradition regarding pedigree
    - E. Common reputation
    - F. Part of the *res gestae*
    - G. Entries in the course of business
    - H. Entries in official records
    - I. Commercial lists and the like
    - J. Learned treatises
    - K. Testimony or deposition at a former trial
- 7. Opinion Rule
  - a. Opinion of expert witness
  - b. Opinion of ordinary witness
- 8. Character Evidence
  - a. Criminal cases
  - b. Civil cases

9. Rule on Examination of a Child Witness (A.M. No. 004-07-SC)
  - a. Applicability of the rule
  - b. Meaning of “child witness”
  - c. Competency of a child witness
  - d. Examination of a child witness
  - e. Live-link TV testimony of a child witness
  - f. Videotaped deposition of a child witness
  - g. Hearsay exception in child abuse cases
  - h. Sexual abuse shield rule
  - i. Protective orders

- F. Offer and Objection
  1. Offer of Evidence
  2. When to Make an Offer
  3. Objection
  4. Repetition of an Objection
  5. Ruling
  6. Striking Out of an Answer
  7. Tender of Excluded Evidence

- G. Supreme Court Rulings as of December 2010

**VII. Revised Rules on Summary Procedure**

- A. Cases covered by the Rule
- B. Effect of failure to answer
- C. Preliminary conference and appearances of parties

**VIII. *Katarungang Pambarangay***

- A. Cases covered
- B. Subject matter for amicable settlement
- C. Venue
- D. When parties may directly go to court
- E. Execution
- F. Repudiation

**IX. Rule of Procedure for Small Claims Cases (AM No. 08-8-7-SC)**

- A. Scope and applicability of the Rule
- B. Commencement of small claims action; Response
- C. Prohibited pleadings and motions
- D. Appearances
- E. Hearing; duty of the judge
- F. Finality of judgment

**X. Rules of Procedure for Environmental Cases (AM No. 09-6-8-SC)**

- A. Scope and Applicability of the Rule
- B. Civil Procedure
  1. Prohibition against Temporary Restraining Order and Preliminary Injunction
  2. Pre-trial Conference; Consent Decree

3. Prohibited Pleadings and Motions
  4. Temporary Environmental Protection Order (TEPO)
  5. Judgment and Execution; Reliefs in a citizen's suit
  6. Permanent Environmental Protection Order; Writ of continuing mandamus
  7. Strategic Lawsuit against Public Participation
- C. Special Proceedings
1. Writ of *Kalikasan*
  2. Prohibited pleadings and motions
  3. Discovery measures
  4. Writ of Continuing *Mandamus*
- D. Criminal Procedure
1. Who may file
  2. Institution of criminal and civil action
  3. Arrest without warrant, when valid
  4. Procedure in the custody and disposition of seized items
  5. Bail
  6. Arraignment and Plea
  7. Pre-trial
  8. Subsidiary liabilities
- E. Evidence
1. Precautionary principle
  2. Documentary evidence

**IMPORTANT NOTE:** This bar coverage description is not intended and should not be used by law schools as a syllabus or course outline in the covered subjects. It has been drawn up for the limited purpose of ensuring that candidates reviewing for the bar examinations are guided on what basic and minimum amounts of laws, doctrines, and principles they need to know and be able to use correctly before they can be licensed to practice law. More is required for excellent and distinguished work as members of the Bar.