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### Tourist compliance to a Code of Conduct and the resulting effects on whale shark (*Rhincodon typus*) behavior in Donsol, Philippines

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#### Abstract

This study examines tourist compliance to the Code of Conduct for whale shark (*Rhincodon typus*) interactions and measures impacts of tourism on whale sharks in Donsol, Philippines. Whale sharks feed in Donsol's waters each winter between November and June, drawing up to 1300 visitors annually. Tourist tour operators, and whale shark behavior were examined during human-whale shark interactions ( $n = 777$ ) on 137 boat trips (March–April and May to 2004, and on 76 boat trips to 2005 and 2006). Average compliance to Code of Conduct regulations in 2004 and 2005 was 48% for the minimum distance kept, 82% for no touching, no path obstruction and a maximum of six swimmers per whale shark, 99% for a maximum of one boat per shark, 99% for no photography and no VCRs, cameras, and no flash. Significant predictors of whale shark's directional changes were path obstruction and proximity of swimmers to whale shark, while for whale shark's dive response it was first-time sighting and whale shark feeding. The apparent prediction of a visitor's number behavior was significant. Generalized linear modeling evaluated change in direction, dive response and violent shuddering variables, and found that touching, flash photography, and swimmer diving towards the whale shark significantly affected the response of disturbance. Tourism impacts on whale sharks can be minimized through adaptive management that monitors tourism and alters interaction regulations to reflect tourist and tour operator actions that have detrimental effects on whale sharks. © 2006 Published by Elsevier B.V.

Keywords: Whale shark; Disturbance; Behavior; Regulations; Ecosystem; Donsol

#### 1. Introduction

Tourism based on interactions with whale sharks (*Rhincodon typus*) has blossomed in recent years (Colman, 1997; Davis et al., 1997; Norman, unpublished). To conserve whale sharks while improving the socioeconomic status of the community, community-based whale shark ecotourism was initiated in Donsol in 1998. Donsol is a small fishing village in southern Luzon, an island in the Philippines. In January 1998, an aggregation of whale sharks was 'discovered' off Donsol, attracting tourists, poachers, the media and government agencies. After poachers killed seven whale sharks in the wake of this discovery, Donsol waters were declared a whale shark sanctuary, and related hunting and trading was banned in the Philippines (Yapintchay, 1999; Alena, unpublished).

From interviews with locals, whale sharks are sighted in Donsol waters all of the months of the year, peaking between March and May. Registered tourist arrivals have increased from 900 visitors in 1998, to 3175 in 2004 and 7100 in the 2005 (Donsol Tourism Center, 2005; Kawasaka, personal communication). There were up to 20 whale shark tours each day, with eight people per tour boat and a record high of 69 tours per day on 24 March 2005. The upward trend in visitation reflects a potential for synergistic impacts for both the whale sharks and the community of Donsol. However, the evidence of short- or long-term negative impacts on whale sharks from tourism is unclear and difficult to obtain (Colman, 1997; Davis et al., 1997).

As interacting with animals in the wild increases, managers must satisfy conflicting values of providing recreation while protecting the animals (Greene et al., 2003). Many studies on the anthropogenic effects on wildlife have been conducted, including swim with marine tourism in Florida, USA (Cheney et al., 2003), and swim-with-dolphin operations in New Zealand (Constantine, 2001) and Australia (Scarpaci et al., 2003). Research in the dolphin tourism industry has shown that dolphins change their behavior by increasing avoidance responses to swimmers who responded to swim-with-dolphin tourism (Constantine and Baker, unpublished; Scarpaci et al., 2006).

The sensitive nature of whale sharks, their aggregation behavior at specific times of the year, slow maturation rate, and migratory behavior make them susceptible to anthropogenic impacts (Triller, 1994; Colman, 1997). The International Union for Conservation of Nature and Natural Resources (IUCN)

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#### THE NEW CODE OF JUDICIAL CONDUCT FOR THE PHILIPPINE JUDICIARY

##### CANON 1 INDEPENDENCE

Judicial independence is a pre-requisite to the Rule of Law and a fundamental guarantee of a fair trial. A judge shall, therefore, uphold and exemplify judicial independence in both individual and institutional aspects.

SECTION 1. Judges shall exercise the judicial function independently on the basis of their assessment of the law and in accordance with a conscientious understanding of the law, free of any extraneous influence, subterfuge, pressure, threat or interference, direct or indirect, from any quarter at any time.

SECTION 2. In performing judicial duties, judges shall be independent from judicial colleagues in respect of decisions which the judge is obliged to make independently.

SECTION 3. Judges shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency.

SECTION 4. Judges shall not allow family, social or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or grant others to convey the impression that they are in special position to influence the judge.

SECTION 5. Judges shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to be free therefrom to a reasonable observer.

SECTION 6. Judges shall be independent in relation to society in general and in relation to the particular parties to a dispute which he or she has to adjudicate.

SECTION 7. Judges shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.

SECTION 8. Judges shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the Judiciary, which is fundamental to the maintenance of judicial independence.

##### CANON 2 INTEGRITY

Integrity is essential not only to the proper discharge of the judicial office, but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only in their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SECTION 2. The behavior and conduct of judges must reinforce the people's faith in the integrity of the judiciary. Honesty must not merely be done, but must also be seen to be done.

SECTION 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

CANON 3 IMPARTIALITY  
Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

## Code of Ethics and the Philippine Pharmacists' Association

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### CODE of ETHICS

• A pharmacist respects the rights of patients and upholds confidentiality of patients' records.

• A pharmacist acts with honesty, integrity and professionalism in relationship with the patients and other

should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary, chan robes virtual law library RULE 2.02 - A judge should not seek publicity for personal vainglory, RULE 2.03 - A judge shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge. RULE 2.04 - A judge should refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency. CANON 3 A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE ADJUDICATIVE RESPONSIBILITIES RULE 3.01 - A judge shall be faithful to the law and maintain professional competence. RULE 3.02 - In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism. RULE 3.03 - A judge shall maintain order and proper decorum in the court. RULE 3.04 - A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants. RULE 3.05 - A judge shall dispose of the court's business promptly and decide cases within the required periods. RULE 3.06 - While a judge may, to promote justice, prevent waste of time or clear up some obscurity, properly intervene in the presentation of evidence during the trial, it should always be borne in mind that undue interference may prevent the proper presentation of the cause or the ascertainment of truth. RULE 3.07 - A judge should abstain from making public comments on any pending or impending case and should require similar restraint on the part of court personnel. ADMINISTRATIVE RESPONSIBILITIES RULE 3.08 - A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions or other judges and court personnel. RULE 3.09 - A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity. RULE 3.10 - A judge should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware. RULE 3.11 - A judge should appoint commissioners, receivers, trustees, guardians, administrators and others strictly on the basis of merit and qualifications, avoiding nepotism and favoritism. Unless otherwise allowed by law, the same criteria should be observed in recommending appointment of court personnel. Where the payment of compensation is allowed, it should be reasonable and commensurate with the fair value of services rendered. DISQUALIFICATION RULE 3.12 - A judge should take no part in a proceeding where the judge's impartiality might reasonably be questioned. These cases include among others, proceedings where:chanroblesvirtuallawlibrary (a) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding; (b) the judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association, or the judge or lawyer was a material witness therein; (c) the judge's ruling in a lower court is the subject of review; (d) the judge is related by consanguinity or affinity to a party litigant within the sixth degree or to counsel within the fourth degree; (e) the judge knows the judge's spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding. In every instance, the judge shall indicate the legal reason for inhibition.cralaw. REMITTAL OF DISQUALIFICATION RULE 3.13 - A judge disqualified by the terms of rule 3.12 may, instead of withdrawing from the proceeding, disclose on the record the basis of disqualification. If, based on such disclosure, the parties and lawyers independently of judge's participation, all agree in writing that the reason for the inhibition is immaterial or insubstantial, the judge may then participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding. CANON 5 A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES ADVOCATIONAL, CIVIC AND CHARITABLE ACTIVITIES RULE 5.01 - A judge may engage in the following activities provided that they do not interfere with the performance of judicial duties or detract from the dignity of the court:chanroblesvirtuallawlibrary (a) write, teach and speak on non-legal subjects; (b) engage in the arts, sports, and other special recreational activities; (c) participate in civic and charitable activities; (d) serve as an officer, director, trustee, or non-legal advisor of a non-profit or non-political educational, religious, charitable, fraternal, or civic organization. FINANCIAL ACTIVITIES chan robes virtual law library RULE 5.02 - A judge shall refrain from financial and business dealing that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities or increase involvement with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests as to minimize the number of cases giving grounds for disqualifications. RULE 5.03 - Subject to the provisions of the proceeding rule, a judge may hold and manage investments but should not serve as officer, director, manager or advisor, or employee of any business except as director of a family business of the judge.chanroblesvirtuallawlibrary RULE 5.04 - A judge or any immediate member of the family shall not accept a gift, bequest, factor or loan from any one except as may be allowed by law. RULE 5.05 - No information acquired in a judicial capacity shall be sued or disclosed by a judge in any financial dealing or for any other purpose not related to judicial activities. FIDUCIARY ACTIVITIES RULE 5.06 - A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trusts, or person of a member of the immediate family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of immediate family" shall be limited to the spouse and relatives within the second degree of consanguinity. As a family, a judge shall not:chanroblesvirtuallawlibrary (a) serve in proceedings that might come before the court of said judge; or (b) act as such contrary to rules 5.02 to 5.05. PRACTICE OF LAW AND OTHER PROFESSION RULE 5.07 - A judge shall not engage in the private practice of law. Unless prohibited by the Constitution or law, a judge may engage in the practice of any other profession provided that such practice will not conflict or tend to conflict with judicial functions. FINANCIAL DISCLOSURE RULE 5.08 - A judge shall make full financial disclosure as required by law.chanroblesvirtuallawlibrary RULE 5.09 - A judge shall not accept appointment or designation to any office performing quasi-judicial or administrative functions.cralaw. POLITICAL ACTIVITIES chan robes virtual law library RULE 5.10 - A judge is entitled to entertain personal views on political questions. But to avoid suspicion of political partisanship, a judge shall not make political speeches, contribute to party funds, publicly endorse candidates for political office or participate in other partisan political activities.chanroblesvirtuallawlibrary COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT chan robes virtual law library All judges shall strictly comply with this Code.cralaw. DATE OF EFFECTIVITY This Code, promulgated on 5 September 1989, shall take effect on 20 October 1989 . Back to Top - Back to Main Index - Back to Home.

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