

[ **NLRC EN BANC RESOLUTION NO. 05-14, March 11, 2014** ]

**INTRODUCING NEW PROVISIONS AND AMENDMENTS TO THE 2011 NLRC RULES OF PROCEDURE, AS AMENDED**

*Adopted: 11 March 2014*

*Date Filed: 13 June 2014*

*Pursuant to Article 218 (a) of the Labor Code, as amended, the National Labor Relations Commission, sitting en banc, RESOLVED TO ADOPT AND PROMULGATE, as it hereby adopts and promulgates new provisions and amendments to the "2011 NLRC Rules of Procedure," as follows:*

**RULE III  
PLEADINGS, NOTICES AND APPEARANCES**

1. Sections 3, 4 and 5, Rule III of the 2011 NLRC Rules of Procedure, as amended, are hereby amended to read as follows:

**SECTION 3. FILING AND SERVICE OF PLEADINGS.** – All pleadings in connection with a case shall be filed with the appropriate docketing unit of the Regional Arbitration Branch or the Commission, as the case may be.

**In the event that the pleadings are filed through registered mail or courier authorized by the Commission, the date of mailing shall be considered as the date of filing thereof.**

The party filing a pleading shall serve the opposing parties with a copy of its supporting documents. No pleading shall be considered without proof of service to the opposing parties except if filed simultaneously during a schedule set before the Labor Arbiter.

**SECTION 4. SERVICE OF NOTICES, RESOLUTIONS, ORDERS AND DECISIONS.** a) Notices and copies of resolutions or orders, shall be served personally upon the parties by the bailiff or duly authorized public officer within three (3) days from his/her receipt thereof or by registered mail or **courier authorized by the Commission;**

b) In case of decisions and final awards, copies thereof shall be served on both parties and their counsel or representative by **personal service,** registered mail or **courier authorized by the Commission;** Provided that, in cases where a party to a case or his/her counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected as herein provided. Where parties are numerous, service shall be made on counsel and upon such number of complainants, as may be practicable and shall be considered

substantial compliance with Article 224 (a) of the Labor Code, as amended.

For purposes of appeal, the period shall be counted from receipt of such decisions, resolutions, or orders by the counsel or representative of record.

c) The bailiff or officer serving the notice, order, or resolution shall submit his/her return within two (2) days from date of service thereof, stating legibly in his/her return his/her name, the names of the persons served and the date of receipt, which return shall be immediately attached and shall form part of the records of the case. In case of service by registered mail or by **courier authorized by the Commission**, the name of the addressee and the date of receipt of the notice, order or resolution shall be written in the return card or in the proof of service issued by the private courier. If no service was effected, the reason thereof shall be so stated.

**SECTION 5. PROOF AND COMPLETENESS OF SERVICE.** – The return is prima facie proof of the facts indicated therein. Service by registered mail or by **courier authorized by the Commission** is complete upon receipt by the addressee or his/her agent. If the addressee fails to claim his/her mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

#### **RULE V PROCEEDINGS BEFORE LABOR ARBITERS**

2. Sections 4, 8, 9 and 21 Rule V of the 2011 NLRC Rules of Procedure, as amended, are hereby supplemented to read as follows:

**SECTION 4. SERVICE OF SUMMONS** – Summons shall be served personally upon the parties by the bailiff or a duly authorized public officer within three (3) days from his/her receipt thereof, or by registered mail, or by **courier authorized by the Commission**; Provided that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court. The bailiff or officer serving the summons shall submit his/her return within two (2) days from date of service thereof, stating legibly in his/her return his/her name, the names of the persons served and the date of receipt, which return shall be immediately attached to the records and shall be part thereof. If no service was effected, the reason thereof shall be stated in the return.

In case of service by registered mail or by **courier authorized by the Commission**, the names of the addressees and the dates of receipt of the summons shall be written in the return card or in the proof of service issued by the private courier. If no service was effected, the reason thereof shall be so stated.

**SECTION 8. MANDATORY CONCILIATION AND MEDIATION CONFERENCE.** – (a) The mandatory conciliation and mediation conference shall be called for the purpose of: (1) amicably settling the case upon a fair compromise; (2) determining the real parties in interest;

(3) determining the necessity of amending the complaint and including all causes of action; (4) defining and simplifying the issues in the case; (5) entering into admissions or stipulations of facts; and (6) threshing out all other preliminary matters. The Labor Arbiter shall personally preside over and take full control of the proceedings and may be assisted by the Labor Arbitration Associate in the conduct thereof. **Provided that, in areas where there is no Labor Arbiter assigned, conciliation and mediation may be conducted by a Labor Arbitration Associate, any other NLRC personnel with sufficient training and knowledge on conciliation and mediation, authorized by the Chairman or a duly authorized personnel of the Department of Labor and Employment pursuant to any Memorandum of Agreement executed for this purpose.**

(b) Conciliation and mediation efforts shall be exerted by the Labor Arbiters **or the said authorized personnel** all throughout the mandatory conferences.

Any agreement entered into by the parties whether in partial or full settlement of the dispute shall be reduced into writing and signed by the parties and their counsel or the parties' authorized representatives, if any.

(c) In any case, the compromise agreement shall be approved by the Labor Arbiter, if after explaining to the parties, particularly to the complainants, the terms, conditions and consequences thereof, he/she is satisfied that they understand the agreement, that the same was entered into freely and voluntarily by them, and that it is not contrary to law, morals, and public policy.

(d) A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and shall have the force and effect of a judgment rendered by the Labor Arbiter.

(e) The mandatory conciliation and mediation conference shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.

(f) No motion for postponement shall be entertained except on meritorious grounds and when filed at least three (3) days before the scheduled hearing.

**SECTION 9. EFFECT OF FAILURE OF SETTLEMENT.** – If the parties fail to agree on an amicable settlement, either in whole or in part, during the mandatory conciliation and mediation conference, the Labor Arbiter **or the said duly authorized personnel** shall proceed to the other purposes of the said conference as enumerated in Section 8(a) hereof.

**SECTION 21. FINALITY OF THE DECISION OR ORDER AND ISSUANCE OF CERTIFICATE OF FINALITY.**

(a) Finality of the Decision or Order of the Labor Arbiter. – If no appeal is filed with the Regional Arbitration Branch of origin within the time provided under Article 223 of the Labor Code, as amended, and Section

1, Rule VI of these Rules, the decision or order of the Labor Arbiter shall become final and executory after ten (10) calendar days from receipt thereof by the counsel or authorized representative or the parties if not assisted by counsel or representative.

(b) Certificate of Finality. – Upon expiration of the period provided in paragraph (a) of this Section, the Labor Arbiter shall issue a certificate of finality.

In the absence of return cards, certifications from the post office or **courier authorized by the Commission** or other proofs of service to the parties, the Labor Arbiter may issue a certificate of finality after sixty (60) calendar days from date of mailing.

## **RULE VI APPEALS**

3. Section 9 of Rule VI of the 2011 NLRC Rules of Procedure, as amended, is hereby supplemented to read as follows:

**SECTION 9. FILING OF APPEAL; EFFECT.** – Without prejudice to immediate reinstatement pending appeal under Section 3 of Rule XI, once an appeal is filed, the Labor Arbiter loses jurisdiction over the case. All pleadings and motions pertaining to the appealed case shall thereafter be addressed to and filed with the Commission.

## **RULE VII PROCEEDINGS BEFORE THE COMMISSION**

4. Sections 7 and 14, Rule VII of the 2011 NLRC Rules of Procedure, as amended, are hereby supplemented to read as follows:

**SECTION 7. INHIBITION.** – No motion to inhibit the entire Division of the Commission shall be entertained. However, any Commissioner may inhibit himself/herself from the consideration and resolution of any case or matter before the Division and shall so state in writing the legal or justifiable grounds therefor. In the event that a member inhibits himself/herself, the case shall be raffled by the Executive Clerk or Deputy Executive Clerk to either of the two (2) remaining Commissioners. In case two (2) Commissioners in a Division inhibit themselves in a case or matter before it, the Chairman shall, as far as practicable, **designate** two (2) Commissioners from other Divisions representing the **respective** sector of the Commissioners who inhibited themselves.

**SECTION 14. FINALITY OF DECISION OF THE COMMISSION AND ENTRY OF JUDGMENT.** – a) Finality of the Decisions, Resolutions or Orders of the Commission. – Except as provided in Section 9 of Rule X, the decisions, resolutions or orders of the Commission shall become final and executory after ten (10) calendar days from receipt thereof by the counsel or authorized representative or the parties if not assisted by counsel or representative.

b) Entry of Judgment. – Upon the expiration of the ten (10) calendar day period provided in paragraph (a) of this Section, the decision, resolution, or order shall be entered in a book of entries of judgment.

In the absence of return cards, certifications from the post office or the courier **authorized by the Commission** or other proofs of service to the parties, the Executive Clerk or Deputy Executive Clerk shall consider the decision, resolution or order as final and executory after sixty (60) calendar days from date of mailing.

## **RULE XI EXECUTION PROCEEDINGS**

5. Sections 1, 9, 18 Rule XI of the 2011 NLRC Rules of Procedure, as amended, is hereby amended to read as follows:

### **SECTION 1. EXECUTION UPON FINALITY OF DECISION OR ORDER.**

– (a) A writ of execution may be issued *motu proprio* or on motion, upon a decision or order that has become final and executory.

(b) If an appeal has been duly perfected and finally resolved by the Commission, a motion for execution may be filed before the Labor Arbiter, when the latter has possession of the case records or upon submission of certified true copies of the decisions or final order/s sought to be enforced including notice of decision or order and the entry of judgment, copy furnished the adverse party.

(c) Except that, as provided for in Section **19** of Rule V in relation to Section 9 of this Rule, and in those cases where partial execution is allowed by law, the Labor Arbiter shall retain duplicate original copies of the decision to be implemented and proof of service thereof for the purpose of immediate enforcement.

### **SECTION 9. MANNER OF EXECUTION OF MONETARY JUDGMENT. –**

**a)** Upon the issuance of a writ of execution by the Labor Arbiter or the Commission, the Sheriff shall **immediately furnish the losing party with a copy thereof by registered mail or by courier authorized by the Commission and** enforce the judgment award in the following order:

- (1) Cash bond
- (2) Bank deposits
- (3) Surety bond
- (4) Should the cash bond or surety bond be insufficient, the Sheriff shall execute the monetary judgment by levying on the personal property, and if insufficient, the real property of the losing party not exempt from execution, sufficient to cover the judgment award, which may be disposed of for value at a public auction to the highest bidder.
- (5) If the losing party has no properties or his/her properties are insufficient and the bonding company refuses to comply with the writ of execution, the sheriff shall proceed to levy on the personal property, and if insufficient, the real property of the bonding company, without prejudice to contempt proceedings against its president, officers or authorized representatives. Moreover, the bonding company shall be barred from transacting business with the Commission;