

Republic of the Philippines
Department of Labor and Employment
NATIONAL LABOR RELATIONS COMMISSION
Quezon City

EN BANC RESOLUTION NO. 11-12
(Series of 2012)

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

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. Section 6, paragraph b (5), Rule III of the "2011 NLRC Rules of Procedure" becomes paragraph "g" and is hereby amended to read as follows:

g) A corporation or establishment which is a party to the case may be represented by the owner or its president or any other authorized person provided, that he/she presents: (i) a verified certification attesting that he/she is authorized to represent said corporation or establishment; and (ii) a copy of the resolution of the board of directors of said corporation, or other similar resolution or instrument issued by said establishment, granting him/her such authority. (6a)

**RULE IV
VENUE, ASSIGNMENT AND DISPOSITION OF CASES
AT THE REGIONAL ARBITRATION BRANCH**

2. Section 1, paragraph c, Rule IV of the "2011 NLRC Rules of Procedure" is hereby amended to read as follows:

c) When venue is not objected to before the first scheduled mandatory conference, such issue shall be deemed waived.

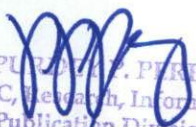
**RULE V
PROCEEDINGS BEFORE LABOR ARBITERS**

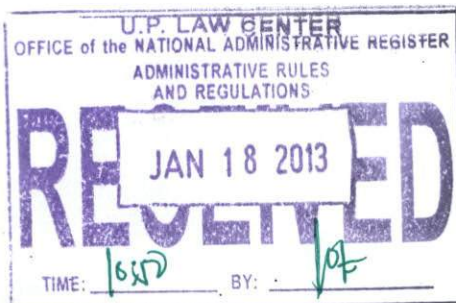
3. Section 6, Rule V of the "2011 NLRC Rules of Procedure" is hereby amended to read as follows:

SECTION 6. MOTION TO DISMISS. - Before the date set for the mandatory conciliation and mediation conference, the respondent may file a motion to dismiss on grounds provided under Section 5, paragraph (a) hereof. Such motion shall be acted upon by the Labor Arbiter before the issuance of an order requiring the submission of position paper. An order denying the motion to dismiss, or suspending its resolution until the final determination of the case, is not appealable. (6a)

4. New Section 11, Rule V of the "2011 NLRC Rules of Procedure" is hereby added as follows:

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SECTION 11. AMENDMENT OF COMPLAINT/ PETITION. An amended complaint or petition may be filed before the Labor Arbiter at any time before the filing of position paper, with proof of service of a copy thereof to the opposing party/ies. If the amendment of the complaint or petition involves impleading additional respondent/s, service of another summons in accordance with Section 3 hereof is necessary to acquire jurisdiction over the person of the said respondent/s. (n)

5. Sections 11, 12, 13, 14, 15, 16, 17 & 18, Rule V of the "2011 NLRC Rules of Procedure" are hereby renumbered as 12, 13, 14, 15, 16, 17, 18 & 19, respectively.

6. New Section 20, Rule V of the "2011 NLRC Rules of Procedure" is hereby added as follows:

SECTION 20. DEATH OF PARTIES. – In case a complainant dies during the pendency of the proceedings, he/she may be substituted by his/her heirs. If it is the individual respondent, the provision of Section 20, Rule 3 of the Rules of Court shall apply. (n)

7. Section 19, Rule V of the "2011 NLRC Rules of Procedure" is hereby renumbered and paragraph "a" is amended to read as follows:

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.

Xxx. (19a)

8. Section 20, Rule V of the "2011 NLRC Rules of Procedure" is hereby renumbered as Section 22.

RULE XI EXECUTION PROCEEDINGS

9. New Section 5, Rule XI of the "2011 NLRC Rules of Procedure" is hereby added as follows:

SECTION 5. EFFECT OF A MOTION TO LIFT ENTRY OF JUDGMENT. - In case a motion to lift Entry of Judgment is filed, the execution proceedings shall not be suspended and the records of the case shall not be elevated to the Commission unless ordered otherwise. (n)

10. Sections 5, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered as Section 6.

11. Section 6, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and its second paragraph is amended to read as follows:


A writ of execution shall be effective for a period of five (5) years from **date of entry of judgment or issuance of certificate of finality.** In case of partial satisfaction of judgment during the lifetime of the writ, the Labor Arbiter

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shall motu proprio issue an updated writ reflecting the amount collected and the remaining balance. (6a)

12. Section 7, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered as Section 8.

13. Section 8, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and amended to read as follows:

SECTION 9. MANNER OF EXECUTION OF MONETARY JUDGMENT. -a) Immediate payment on demand. - The Sheriff shall enforce a monetary judgment by demanding the immediate payment of the full amount stated in the writ of execution and all legal fees from the losing party or any other person required by law to obey the same.

In case of voluntary tender of payment by the losing party and –

- (1) in the presence of the prevailing party, it shall be effected before the Labor Arbiter or Executive Labor Arbiter, as the case may be;**
- (2) in the absence of the prevailing party, it shall be effected by immediately depositing the same, in cash or in check, with the Cashier of the NLRC or authorized depository bank and shall be released only upon order of the Commission or Labor Arbiter who issued the writ.**

Payment in the form of check shall be in the name of the Commission.

b) In the event of failure or refusal of the losing party to pay the judgment award, the Sheriff shall **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, within five (5) days from demand, 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;

c) If the bonding company refuses to pay or the bank holding the cash deposit of the losing party refuses to release the garnished amount despite the order or pertinent processes issued by the Labor Arbiter or the Commission, the president or the responsible officers or authorized representatives of the said bonding company or the bank who resisted or caused the non-compliance shall be either cited for contempt, or held liable for resistance and disobedience to a person in authority or the agents of such person as provided under the pertinent provision of the Revised Penal Code. This rule shall likewise apply to any person or party who unlawfully resists or refuses to comply with the break open order issued by the Labor Arbiter or the

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Commission.

For this purpose, the Labor Arbiter or the Commission may issue an order directing the sheriff to request the assistance of law enforcement agencies to ensure compliance with the writ of execution, orders or processes.

A bonding company cited for contempt, or for an offense defined and punishable under the pertinent provision of the Revised Penal Code shall be barred from transacting business with the Commission.

d) Proceeds of execution shall be deposited with the Cashier of the concerned Division or Regional Arbitration Branch, or with an authorized depository bank. Where payment is made in the form of a check, the same shall be payable to the Commission.

e) For monetary judgment on cases involving Overseas Filipino Workers, the manner of execution shall be in accordance with Republic Act 10022. (8a)

14. New Sections 10 and 11, Rule XI of the "2011 NLRC Rules of Procedure" are hereby added as follows:

SECTION 10. BREAK OPEN ORDER; WHEN ISSUED. – Should the losing party, his agent or representative refuse or prohibit the sheriff or his authorized representative entry to the place where the property subject of execution is located or kept, the prevailing party may file a motion for a break open order with the Commission or Labor Arbiter concerned who, after due notice and hearing, shall resolve the same. (n)

SECTION 11. EXECUTION IN CASE OF DEATH OF PARTY. – Where a party dies after the entry of judgment or issuance of certificate of finality, execution thereon may issue or one already issued may be enforced in accordance with the applicable provisions of the Rules of Court.

The sheriff shall submit to the Commission or Labor Arbiter a report before and after the sale. Proceeds of the sale should be deposited with the Cashier for proper disposition by the Commission or Labor Arbiter. (n)

15. Section 9, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and amended to read as follows:

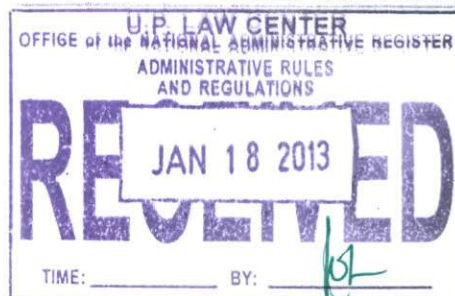
SECTION 12. EXECUTION OF REINSTATEMENT PENDING APPEAL. - In case the decision includes an order of reinstatement, and the employer disobeys the directive under the second paragraph of Section 18 of Rule V or refuses to reinstate the dismissed employee, the Labor Arbiter shall immediately issue writ of execution, even pending appeal, directing the employer to immediately reinstate the dismissed employee either physically or in the payroll, and to pay the accrued salaries as a consequence of such non-reinstatement in the amount specified in the decision.

The Labor Arbiter shall *motu proprio* issue a corresponding writ to satisfy the reinstatement wages as they accrue until actual reinstatement or reversal of the order of reinstatement.

The Sheriff shall serve the writ of execution upon the employer or any other person required by law to obey the same. If he/she disobeys the writ, such employer or person may be cited for contempt in accordance with Rule IX. (9a)

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16. Section 10, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and amended to read as follows:

SECTION 13. RESOLUTION OF MOTION TO QUASH. – A motion to quash shall be resolved by the Labor Arbiter within ten (10) working days from filing of said motion. The mere filing of a motion to quash shall not stay execution proceedings. (10a)

17. Section 11, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and paragraph "a" is amended to read as follows:

SECTION 14. THIRD PARTY CLAIM. – a) If the property levied is claimed by any person other than the losing party, such person may file a third party claim not later than five (5) days from the last day of posting or publication of the notice of execution sale, otherwise the claim shall be forever barred. Such third party claim must comply with the following requirements:

(1) An affidavit stating title to property or right to the possession thereof with supporting evidence;

(2) Posting of a cash or surety bond equivalent to the amount of the claim or judgment award and in accordance with Section 6 of Rule VI;

(3) In case of real property, posting of a refundable cash deposit of twenty thousand pesos (P20,000) for the payment of republication of notice of auction sale; and

(4) Payment of prevailing filing fee.

Xxx (11a)

18. Sections 12 and 13, Rule XI of the "2011 NLRC Rules of Procedure" are hereby renumbered as Sections 15 & 16, respectively.

19. New Section 17, Rule XI of the "2011 NLRC Rules of Procedure" is hereby added as follows:

SECTION 17. EFFECT OF REVERSAL DURING EXECUTION PROCEEDINGS. In case of total or partial reversal of judgment by the Court of Appeals, the execution proceedings shall be suspended insofar as the reversal is concerned notwithstanding the pendency of a motion for reconsideration on such judgment.

However, where the judgment of the Court of Appeals is reversed by the Supreme Court, execution proceedings shall commence upon presentation of certified true copy of the decision and entry of judgment.

(n)

20. Section 14, Rule XI of the "2011 NLRC Rules of Procedure" is hereby renumbered and amended to read as follows:

SECTION 18. RESTITUTION – Where the executed judgment is totally or partially reversed or annulled by the Court of Appeals or the Supreme Court with finality, the Labor Arbiter shall, on motion, issue such order of restitution of the executed award, except reinstatement wages paid pending appeal. (14a)

RULE XII EXTRAORDINARY REMEDIES

21. Section 9, Rule XII of the "2011 NLRC Rules of Procedure" is hereby amended to read as follows:

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SECTION 9. EFFECT OF FILING OF PETITION. – Upon filing of the petition, the proceedings before the Labor Arbiter shall continue unless restrained. In case of execution, the proceedings in accordance with Rule XI of these Rules shall not be suspended, but no money collected or credit garnished may be released or **personal** properties levied upon be sold by public auction within fifteen (15) calendar days from the filing of the petition. If no temporary restraining order or writ of preliminary injunction is issued within the said period, the money collected or credit garnished shall be released and/or the properties levied upon sold by public auction and the proceeds of the sale applied, to satisfy the judgment.

In case of execution proceedings, the Labor Arbiter shall immediately inform in writing the Commission or the Division where the petition is pending of the satisfaction of the judgment, and, if circumstances warrant, the Commission shall dismiss the petition for being moot.

The records of the case shall not be elevated to the Commission unless otherwise ordered.

In the event of filing of a subsequent petition under this rule involving the same issues, the suspension of the release of money collected or credit garnished or the suspension of auction sale over properties levied upon under the first paragraph shall not apply. (9a)

**RULE XIII
COMMISSION SEAL AND RECORDS, AND
POWERS AND DUTIES OF COMMISSION OFFICIALS**

22. Section 8, Rule XIII of the "2011 NLRC Rules of Procedure" is hereby amended to read as follows:

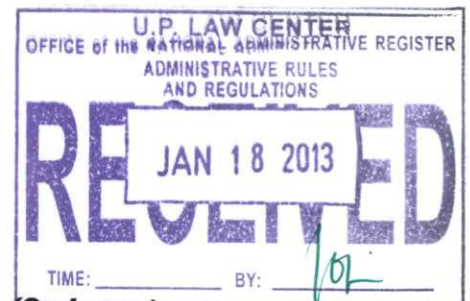
SECTION 8. ACCESS TO COMMISSION RECORDS. - All **Decisions, Resolutions and Orders of the Commission** shall be open to the **parties to the case and their counsel or authorized representative** during regular office hours. **Access to pleadings and other documents filed by parties to a case are restricted. However,** reports, drafts of decisions, records of deliberations or documents of the Commission involving private rights **shall be confidential.** (8a)

These **AMENDMENTS** shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Signed this 16th day of November 2012 at Quezon City, Philippines.


GERARDO C. NOGRALES
Chairman


RAUL A. AQUINO
Presiding Commissioner



(On Leave)
ALEX A. LOPEZ
Presiding Commissioner

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HERMINIO V. SUELO
Presiding Commissioner


LEONARDO L. LEONIDA
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JOSEPH GERARD E. MABYLOG
Presiding Commissioner


VIOLETA O. BANTUG
Presiding Commissioner

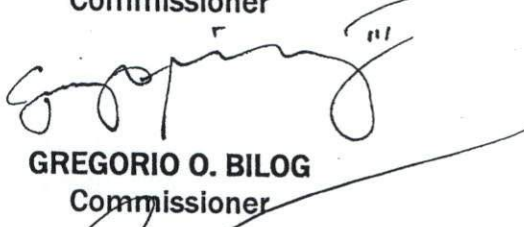

BARIO-ROD M. TALON
Presiding Commissioner


PERLITA B. VELASCO
Commissioner


ROMEO L. GO
Commissioner


TERESITA D. CASTILLON-LORA
Commissioner


ERLINDA T. AGUS
Commissioner

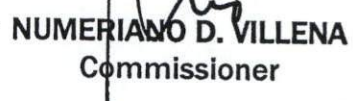

GREGORIO O. BILOG
Commissioner


PABLO C. ESPIRITU, JR.
Commissioner


ISABEL G. PANGANIBAN-ORTIGUERRA
Commissioner

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NIEVES E. VIVAR-DE CASTRO
Commissioner


NUMERIANO D. VILLENA
Commissioner


ANGELO ANG PALAÑA
Commissioner

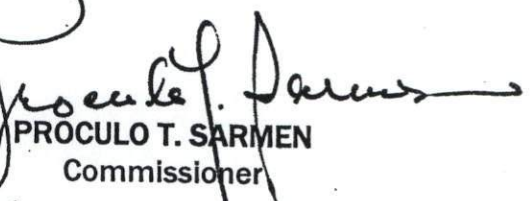

MERCEDES R. POSADA-LACAP
Commissioner

(On Leave)

DOLORES M. PERALTA-BELEY
Commissioner


JULIE C. RENDOQUE
Commissioner
(w/ reservation on Rule XI, Section 17 in M.R.)



JOSE G. GUTIERREZ
Commissioner


PROCULO T. SARME
Commissioner


DOMINADOR B. MEDROSO, JR.
Commissioner

Attested by:


ELENA F. CRUZ
Executive Clerk of Court IV

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