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05 August 2014

**ATTY. GERARDO BENJAMIN C. NOGRALES**  
*Chairman*  
National Labor Relations Commission  
PPSTA Bldg., Banawe corner P. Florentino St.  
Quezon City

**RE: Amendments to the 2011 NLRC Rules of Procedure**

Dear Mr. Chairman Nograles:

We would like to thank the Commission for the timely publication of the Amendments to the 2011 NLRC Rules of Procedure. We are glad to note that the relevant rules on service of notices, etc., were changed to include "the courier authorized by the Commission". We are grateful that the Commission took this positive action in response to mounting complaints against a certain courier service provider being used by the Commission.

We would like to take this opportunity to ask for clarification on the following, viz:

1. Which procedure on The Manner of Execution of Monetary Judgment will apply to manning agencies/shipowners? Is it Section 9 (a), Rule XI NLRC Rules of Procedure? Or is it Republic Act 10022 as provided under 9 (d) Rule XI, NLRC Rules of Procedure?

We humbly submit the Manner of Execution established under Section 10 of the Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipino Act of 1995, as Amended (R.A. 10022), shall be controlling insofar as money claims of overseas Filipino workers which includes seafarers, are concerned.

Our proposition is supported by Article 7 of the Civil Code which provides, viz:

"xxx  
xxx

Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to laws or the constitution."

Invariably, we wish to draw the Commission's attention to the following inconsistencies between the 2011 NLRC Rules of Procedure (NLRC Rules) and R.A. 10022;

1. Section 9, a, Rule XI of the NLRC Rules provides for immediate enforcement of the judgment award against the losing party upon receipt of the Writ of Execution issued by the Labour Arbiter. *(Underscoring ours for emphasis)*

Under Section 10 of R.A. 10022, the Labour Arbiter shall issue a Writ of Execution mandating the respondent manning agency to pay the judgment award within thirty (30) days from receipt of the writ.

2. Section 9, a, Rule XI of the NRLC Rules provides for the following sequential order in the enforcement of the judgment award, viz:

- (1) Cash bond
- (2) Bank deposit
- (3) Surety bond
- (4) If cash or surety bond be insufficient NLRC sheriff shall levy on the personal and real properties of the losing party

Whilst Section 10, (2), (3), (4) and (5) of R.A. 10022 lays down the sequence of enforcement of judgment, viz:

- (1) Manning agency shall fill a notice of claim with the insurance provider;
- (2) Within ten (10) days from the filing of notice of claim, the insurance company shall remit the payment to the manning agency. The manning agency shall in turn pay the migrant worker's claim immediately and in full;
- (3) In case the insurance company fails to make the payment within ten (10) days from the filing of claim, the manning agency shall pay within the remaining balance of the thirty (30) day period;



(4) If the claim is not settled within the thirty (30) day period, the manning agency's escrow deposit shall be garnished to satisfy the claim.

2. Is our understanding correct that the NLRC Labour Arbiter will have authority to act on a claim for restitution for partially or totally executed judgments only if restitution is ordered by the Court of Appeals (CA) or the Supreme Court (SC)? Does this mean that the losing party at the NLRC level cannot avail of the remedy of restitution within the NLRC in the absence of a direct order from CS or SC?

If this is so, how will the losing party recover the money executed at the NLRC short of filing an action for recovery with the regular courts of law?

3. Will the new sections 19 and 20, Rule XI of the NLRC Rules of Procedure be available to a party seeking for restitution?

We thank you again for your time and attention and we look forward to the Commission's responses to our queries.

Thank you very much.

Very truly yours,

  
**ATTY. IMELDA L. BARCELONA**  
President  
Lubeca Protection & Indemnity Phils., Inc.