

# Conciliation-Mediation

## CONCILIATION-MEDIATION DIVISION

---

1. Perform conciliation and mediation functions;
  2. Provide Technical Assistance in the Preparation and Administration of Collective Bargaining Agreements and in Drawing Up Joint Agreements;
  3. Provide training on Alternative Dispute Resolution;
  4. Supervise/observe conduct of strike balloting and improved/reduced offer balloting;
  5. Provide counseling services on labor relations related issues;
  6. Provide training on effective negotiations and collective bargaining;
  7. Provide speakership services on labor relations related topics during seminars, symposia, and orientation;
  8. Provide Free Legal Aid and Voluntary Arbitration Services (FLAVAS).
- 

[Conciliator-Mediators' Declaration of Principles](#)

[Notive of Strike/Lockout Process Workflow](#)

[Preventive Mediation Process Workflow](#)

[Single ENtry Approach \(SENA\)](#)

---

***FREQUENTLY ASKED QUESTIONS***

---

## **WHAT IS CONCILIATION AND MEDIATION?**

**Conciliation** – is conceived of as a mild form of intervention by a neutral third party, the Conciliator-Mediator, relying on his persuasive expertise, who takes an active role in assisting parties by trying to keep disputants talking, facilitating other procedural niceties, carrying messages back and forth between the parties, and generally being a good fellow who tries to keep things calm and forward-looking in a tense situation.

**Mediation** – is a mild intervention by a neutral third party, the Conciliator-Mediator, whereby he starts advising the parties or offering solutions or alternatives to the problems with the end in view of assisting them towards voluntarily reaching their own mutually acceptable settlement of the dispute.

## **WHO CAN AVAIL OF CONCILIATION AND MEDIATION SERVICES OF THE NCMB?**

Any party to a labor dispute, either the union or management, may seek the assistance of NCMB or any of its Regional Branches by means of formal request for conciliation and preventive mediation. Depending on the nature of the problem, a request may be filed in the form of consultation, notice of preventive mediation or notice of strike/lockout.

## **WHERE CAN A REQUEST FOR CONCILIATION AND MEDIATION BE FILED?**

An informal or formal request for conciliation and mediation service can be filed at the NCMB Central Office or any of its Regional Branches. There are at present fourteen (14) regional offices of the NCMB which are strategically located all over the country for the convenient use of prospective clients.

## **WHAT ARE THE VALID ISSUES FOR A NOTICE OF STRIKE/LOCKOUT OR**

## **PREVENTIVE MEDIATION CASE?**

A notice of strike or lockout maybe filed on ground of unfair labor practice acts, gross violation of the CBA, or deadlock in collective bargaining. A complaint on any of the above ground must be specified in the NCMB Form or the proper form used in the filing of complaint.

In case of preventive mediation, any issue may be brought before the NCMB Central Office or its regional offices for conciliation and possible settlement through a letter. This method is more preferable than a notice of strike/lockout because of the non-adversarial atmosphere that pervades during the conciliation conferences.

## **WHAT ADVANTAGE CAN BE DERIVED FROM CONCILIATION AND MEDIATION SERVICES?**

Conciliation and mediation is non-litigious/non-adversarial, less expensive, and expeditious. Under this informal set-up, the parties find it more expedient to fully ventilate their respective positions without running around with legal technicalities and, in the course thereof, afford them a wider latitude of possible approaches to the problem.

## **ARE THE PARTIES BOUND BY THE AGREEMENT ENTERED INTO BY THEM?**

Certainly, the parties are bound to honor any agreement entered into by them. It must be pointed out that such an agreement came into existence as a result of painstaking efforts among the union, management, and the Conciliator-Mediator. Therefore, it is only logical to assume that the Conciliator assigned to the case has to follow up and monitor the implementation of the agreement.

## **IS CONCILIATION AND MEDIATION SERVICE STILL POSSIBLE DURING ACTUAL STRIKE OR ACTUAL LOCKOUT?**

Definitely, it is possible to subject an actual strike or

actual lockout to continuing conciliation and mediation services. In fact, it is at this critical stage that such conciliation and mediation services by fully given a chance to work out possible solution to the labor dispute. With the ability of the Conciliator-Mediator to put the parties at ease and place them at a cooperative mood, the final solutions of all the issues involved may yet be effected and settled.

**WHEN THE DISPUTE HAS ALREADY BEEN ASSUMED OR CERTIFIED TO THE NLRC, IS IT ALSO POSSIBLE TO REMAND THE SAME TO CONCILIATION AND MEDIATION SERVICES?**

Yes, the parties are not precluded from availing the services of an NCMB Conciliator-Mediator as the duty to bargain collectively subsists until the final resolution of all issues involved in the dispute. Conciliation is so pervasive in application that, prior to a compulsory arbitration award, the parties are encouraged to continue to exhaust all possible avenues of mutually resolving their dispute, especially through conciliation and mediation services.

**WHAT PARLIAMENTARY NORM OF CONDUCT SHOULD ESSENTIALLY BE OBSERVED DURING CONFERENCES?**

- Be on time for each meeting. Concentrate on the merits and stick to the issue.
- Be sure you are duly authorized to speak and decide for your principal. Bargain in good faith.
- Listen actively, be open to options and suggestions. Do not negotiate with inflexible position.
- Be cordial in language at all times and respect the other fellow's opinion. Remember, we are all concerned in resolving a dispute.

**WHAT IS THE ROLE OF THE CONCILIATOR-MEDIATOR?**

The essential role of the Conciliator/Mediator is mainly to facilitate the negotiation of the conflicting parties in order

## WHAT IS STRIKE, PICKETING AND LOCKOUT?

- **STRIKE** – means any temporary stoppage of work by the concerted action of the employees as a result of an industrial or labor dispute. (Art. 212 (0), Labor Code, as amended by Sec. 4, R. A. 6715.)
- **PEACEFUL PICKETING** – the right of workers during strikes consisting of the marching to and from before the premises of an establishment involved in a labor dispute, generally accompanied by the carrying and display of signs, placards or banners with statements relating to the dispute. (GUIDELINES GOVERNING LABOR RELATIONS, October 19, 1987)
- **LOCKOUT** – means the temporary refusal of an employer to furnish work as a result of an industrial or labor dispute. (Article 212 (p) Labor Code, as amended by Section 4, R.A. 6715).

## WHAT ARE THE DIFFERENT FORMS OF STRIKES?

- **LEGAL STRIKE** one called for a valid purpose and conducted through means allowed by law.
- **ILLEGAL STRIKE** – one staged for a purpose not recognized by law, or if for a valid purpose, conducted through means not sanctioned by law.
- **ECONOMIC STRIKE** – one staged by workers to force wage or other economic concessions from the employer which he is not required by law to grant (Consolidated Labor Association of the Phil. vs. Marsman and Company, 11 SCRA 589)
- **ULP STRIKE** one called to protest against the employer's acts of unfair practice enumerated in Article 248 of the Labor Code, as amended, including gross violation of the collective bargaining agreement (CBA) and union busting.
- **SLOW DOWN STRIKE** one staged without the workers quitting their work but by merely slackening or by reducing their normal work output.
- **WILD-CAT STRIKE** one declared and staged without filing

the required notice of strike and without the majority approval of the recognized bargaining agent.

- **SIT DOWN STRIKE** one where the workers stop working but do not leave their place of work.

## **WHAT IS AN INDUSTRIAL DISPUTE?**

An industrial or labor dispute includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee. (Article 212 (1) Labor Code, as amended by Section 4, R.A. 6715)

## **WHAT IS THE NATURE OF THE RIGHT TO STRIKE AND LOCKOUT?**

The right to strike is a constitutional and legal right of the workers as the employers have the inherent and statutory right to lockout, all within the context of labor relations and collective bargaining. It is a means of last resort and presupposes that the duty to bargain in good faith has been fulfilled and other voluntary modes of dispute settlement have been tried and exhausted. (Guidelines Governing Labor Relations).

## **WHO MAY DECLARE A STRIKE OR LOCKOUT?**

Any certified or duly recognized bargaining representative may declare a strike in cases of bargaining deadlock and unfair labor practice. Likewise, the employer may declare a lockout in the same cases.

In the absence of a certified or duly recognized bargaining representative, any legitimate labor organization in the establishment may declare a strike but only on the ground of unfair labor practice. (Section 2, Rule XIII Book V, Omnibus Rules Implementing The Labor Code, as amended).

## WHAT ARE THE REQUISITES OF A LAWFUL STRIKE/LOCKOUT?

The requirements for a valid strike or lockout are as follows:

- It must be based on a valid and factual ground;
- A strike or lockout NOTICE shall be filed with the National Conciliation and Mediation Board (NCMB) at least 15 days before the intended date of the strike or lockout if the issues raised are unfair labor practices, or at least 30 days before the intended date thereof if the issue involves bargaining deadlock.
- In cases of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute UNION BUSTING where the existence of the union is threatened, the 15-day cooling-off period shall not apply and the union may take action immediately after the strike vote is conducted and the result thereof submitted to the Department of Labor and Employment.
- A strike must be approved by a majority vote of the members of the Union and a lockout must be approved by a majority vote of the members of the Board of Directors of the Corporation or Association or of the partners in a partnership, obtained by secret ballot in a meeting called for that purpose .
- A strike or lockout VOTE shall be reported to the NCMB-DOLE Regional Branch at least 7 days before the intended strike or lockout subject to the cooling-off period.
- In the event the result of the strike/lockout ballot is filed within the cooling-off period, the 7-day requirement shall be counted from the day following the expiration of the cooling-off period. (NSFW vs. Ovejera, G.R. No. 59743, May 31, 1982) In case of dismissal from employment of union officers which may constitute union

busting, the time requirement for the filing of the Notice of Strike shall be dispensed with but the strike vote requirement, being mandatory in character, shall "in every case" be complied with.

- The dispute must not be the subject of an assumption of jurisdiction by the President or the Secretary of Labor and Employment, a certification for compulsory arbitration, or submission to compulsory or voluntary arbitration nor a subject of a pending case involving the same grounds for the strike or lockout.

#### **WHAT ARE THE VALID GROUNDS FOR DECLARING A STRIKE OR LOCKOUT?**

The law recognizes 2 grounds for the valid exercise of the right to strike or lockout, namely: Collective Bargaining Deadlock (CBD) and/or Unfair Labor Practice (ULP).

#### **MAY A UNION FILE A NOTICE OF STRIKE OR THE EMPLOYER FILE A NOTICE OF LOCKOUT IF THE LABOR DISPUTE IS BASED ON A GROUND OTHER THAN ULP AND CBD?**

No. The union/employer may not file a notice based on grounds other than ULP and CBD. Violations of Collective Bargaining Agreements, except flagrant and/or malicious refusal to comply with its economic provisions, shall not be considered unfair labor practice and shall not be strikeable and no strike or lockout may be declared on grounds involving inter-union and internal union disputes or on issues brought to voluntary or compulsory arbitration including legislated wage orders and labor standard cases.

However, if improvidently filed and it appears on the face of the notice that the issues raised are non-strikeable or the real issues discovered during conciliation proceedings are not proper subjects of a Notice of Strike or Lockout, the NCMB Regional Branch shall dismiss motu proprio the notice without prejudice to further conciliation, or upon the request of



either or both parties, in which case, the Notice of Strike or Lockout is treated as a Preventive Mediation Case. (See Definition of Preventive Mediation Case under Appendix 3, Definition of Terms).

#### **WHAT ARE THE CONTENTS OF A NOTICE OF STRIKE OR LOCKOUT?**

The notice shall state, among others, the names and addresses of the employer and the union involved, the nature of the industry to which the employer belongs, the number of union members and of the workers in the bargaining unit, and such other relevant data as may facilitate the settlement of the dispute, such as a brief statement or enumeration of all pending labor disputes involving the same parties

In cases of bargaining deadlocks, the notice shall, as far as practicable, further state the unresolved issues in the bargaining negotiations and be accompanied by the written proposals of the union, the counter-proposals of the employer and the proof of a request for conference to settle the differences.

In cases of unfair labor practices, the notice shall, as far as practicable, state the acts complained of and the efforts taken to resolve the dispute amicably.

#### **WHAT IS THE ROLE OF THE NCMB IN CASE A NOTICE OF STRIKE OR LOCKOUT IS FILED?**

Upon receipt of a valid notice of strike or lockout, the NCMB, through its Conciliator-Mediators, shall call the parties to a conference the soonest possible time in order to actively assist them to explore all possibilities for amicable settlement. To this end, the Conciliator-Mediator may suggest/offer proposals as an alternative avenue for the resolution of their disagreement/conflict which may not necessarily bind the parties. In the event of failure in conciliation/mediation the parties shall be encouraged to submit their dispute for voluntary arbitration.

## **WHAT IS THE LEGAL IMPLICATION IF THE CONTENT- REQUIREMENT OF THE NOTICE OF STRIKE OR LOCKOUT HAS NOT BEEN COMPLIED WITH?**

Any notice which does not conform with the foregoing requirements shall be deemed as not having been filed.

## **WHAT IS THE PURPOSE OF THE STRIKE VOTE?**

To ensure that the decision to strike broadly rests with the majority of the Union members in general and not with a mere minority, at the same time, discourage wildcat strikes, union bossism and even corruption.

## **WHAT IS THE PURPOSE OF THE STRIKE VOTE REPORT?**

To ensure that a strike vote was indeed taken and in the event that the report is false, to afford the members an opportunity to take the appropriate remedy before it is too late.

## **WHAT IS THE PURPOSE OF THE TIME REQUIREMENT IN THE NOTICE OF STRIKE/LOCKOUT?**

The 15 and 30 days requirement is known as the Cooling-Off Period designed to afford parties the opportunity to amicably resolve the dispute with the assistance of the NCMB Conciliator/Mediator. Should the dispute remain unsettled until the lapse of the required number of days from the mandatory filing of the notice, the labor union may strike or the employer may commence a lockout after having complied with the 7-day requirement for the filing of the strike or lockout vote, as the case may be.

## **WHAT ARE THE PROHIBITED ACTS AND PRACTICES?**

- Declaring a strike or lockout on grounds involving inter-union and intra-union disputes or on issues brought to voluntary or compulsory arbitration.
- Declaring a strike or lockout without first having bargained collectively or without first having filed the

required notice or without the necessary strike or lockout vote first having been obtained and reported to the Regional Branch of the NCMB.

- Declaring a strike or lockout in defiance of a cease-and-desist order, or an order for the striking employees to return to work and for the employer accept the workers after assumption of jurisdiction by the President or Secretary of Labor and Employment, or after certification or submission of the dispute to compulsory or voluntary arbitration, or during the pendency of a case involving the authorized grounds for the strike or lockout.
- Obstructing, impeding or interfering with by force, violence, coercion, threats or intimidation any peaceful picketing by employees during any labor controversy or in the exercise of their right to self-organization or collective bargaining, or aiding or abetting such obstruction or interference.
- Employing any strike breaker or being employed as a strike-breaker.
- No public official or employee, including officers and personnel of the Armed Forces of the Philippines, of the Philippine National Police, or any armed person shall –
  - bring in, introduce or escort, in any manner, any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or
  - work in place of strikers.
- Nothing herein shall be interpreted to prevent the aforementioned officials, employees or peace officers from taking any measure necessary to maintain peace and order and/or to protect life and property.

- Stationary picket and the use of means like placing of objects to constitute permanent blockade or to effectively close points of entry or exit in company premises
- Any act of violence, coercion or intimidation by any picketer.
- The obstruction of the free ingress to or egress from the employer's premises for lawful purposes.
- Obstruction of public thoroughfares while engaged in picketing.

#### **WHAT ARE THE LEGAL IMPLICATIONS FOR NON-COMPLIANCE WITH THE REQUIREMENTS FOR A VALID STRIKE OR LOCKOUT?**

- The requirements for a valid strike or lockout are mandatory in character and non-compliance therewith is sufficient ground to declare the strike or lockout illegal.
- If a strike is declared illegal, the employer may be authorized to terminate the employment of union officials who knowingly participated in the illegal strike and/or any worker or union officer who knowingly participated in the commission of other illegal acts during the strike.
- In case the lockout is declared illegal, any worker whose employment has been terminated as a consequence thereof may be entitled to re-instatement including payment of full backwages and other benefits.

#### **WHEN A DISPUTE SUBJECT OF A NOTICE OF STRIKE IS FORTHWITH TREATED AS A PREVENTIVE MEDIATION CASE, MAY THE UNION LATER ON STAGE A STRIKE ON ACCOUNT OF THE SAME DISPUTE?**

No. Once the dispute has been converted into a preventive mediation case, the notice of strike is deemed dropped from the dockets as if no notice of strike has been filed. Since there is no more notice of strike to speak about, any strike subsequently staged by the Union is deemed not to have complied with the requirements of a valid strike. The same rule applies in the case of lockout by an employer, (PAL vs. Sec. of Labor).

**WHO HAS THE DUTY TO DECLARE THAT THE NOTICE OF STRIKE/LOCKOUT HAS BEEN CONVERTED INTO A PREVENTIVE MEDIATION CASE?**

Upon the recommendation of the Conciliator/Mediator handling the labor dispute, the Director of the Regional Branch of the NCMB which has jurisdiction over the labor dispute has the duty to declare and inform the parties that the issues raised or the actual issues involved are not proper subjects of a Notice of Strike or Lockout and that the Notice of Strike or Lockout has been converted into a Preventive Mediation Case without prejudice to further conciliation or upon the request of either or both parties.

**MAY A LABOR DISPUTE, SUBJECT OF A NOTICE OF STRIKE OR LOCKOUT, MATURE INTO A VOLUNTARY ARBITRATION CASE?**

Yes. By mutual agreement, the parties may decide to bring the matter for resolution before an accredited voluntary arbitrator of their own choice, in which case the Notice is deemed automatically withdrawn and dropped from the dockets.

**WHEN MAY A STRIKE OR LOCKOUT BE DECLARED ILLEGAL?**

A strike or lockout may be declared illegal if any of the requirements for a valid strike or lockout is not complied with. It may also be declared illegal if it is based on non-strikeable issues or if the issues involved are already the subject of arbitration. During a strike or lockout, when either of the parties commit prohibited acts or practices, the strike or lockout may be declared illegal.

## **WHO HAS JURISDICTION TO DETERMINE THE LEGALITY OF STRIKE AND LOCKOUT?**

In general, the Labor Arbiter in the appropriate Arbitration Branch of the National Labor Relations Commission has the power to determine questions involving the legality or illegality of a strike or lockout upon the filing of a proper complaint and after due hearing.

Where the matter of legality or illegality of strike is raised in the dispute over which the Secretary assumed jurisdiction or in disputes certified by the Secretary to the Commission for compulsory arbitration, the same may be resolved by the Secretary or the Commission, respectively. (International Pharmaceuticals, Inc. vs. Secretary of Labor and Associated Labor Union, GR. No. 92981-83, January 9, 1992.)

## **MAY A VOLUNTARY ARBITRATOR DETERMINE THE LEGALITY OF A STRIKE?**

If the issue is voluntarily and jointly submitted by the parties to voluntary arbitration, the question may be resolved by the voluntary arbitrator or panel of voluntary arbitrators.

## **CAN ANY PERSON PERFORMING ANY OF THE PROHIBITED ACTIVITIES MENTIONED IN THE PROCEEDING PARAGRAPH BE CHARGED BEFORE THE COURT?**

Yes. They may be charged before the appropriate civil and criminal court.

## **WHAT IS THE PENALTY IMPOSABLE?**

Any person violating any of the provisions of Article 265 of the Labor Code (performing any of the above prohibited activities) shall be punished by a fine of not exceeding P500.00 and/or imprisonment for not less than one (1) day nor more than six (6) months.

If the person so convicted is a foreigner, he shall be subjected to immediate and summary deportation and will be

permanently barred from re-entering the country without the special permission of the President.

If the act is at the same time a violation of the Revised Penal Code (RPC), a prosecution under the Labor Code will preclude prosecution for the same act under the RPC or vice-versa.

**IS AN EMPLOYEE WHO PARTICIPATES IN A LAWFUL STRIKE DEEMED TO HAVE ABANDONED HIS EMPLOYMENT?**

No. An employee who goes on strike is not deemed to have abandoned his employment but is merely exercising his right to self-organization precisely to protect his rights as an employee and/or to obtain better working conditions.

**IS PARTICIPATION BY AN EMPLOYEE IN STRIKE SUFFICIENT GROUND FOR AN EMPLOYER TO TERMINATE HIS EMPLOYMENT?**

No. The mere participation of a worker in lawful strike shall not constitute sufficient ground for the termination of his employment even if a replacement has been hired by the employer during such lawful strike. However, any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status.

**ARE THE STRIKERS ENTITLED TO PAYMENT OF WAGES DURING THE PERIOD OF A LAWFUL STRIKE?**

As a general rule, striking employees are not entitled to the payment of wages for unworked days during the period of the strike pursuant to the principle of "No work – No pay". However, this does not preclude the parties from entering into an agreement to the contrary.

On the other hand, when strikers abandon the strike and apply for reinstatement despite the existence of valid grounds but

the employer either refuses to reinstate them or imposes upon their reinstatement new conditions that constitute unfair labor practices, the strikers, who refuse to accept the new conditions and are consequently refused reinstatement, are entitled to the losses of pay they may have suffered by reason of the employer's discriminatory acts from the time they were refused reinstatement.

### **MAY A STRIKE/LOCKOUT BE ENJOINED/PREVENTED BY LEGAL PROCESS?**

As a general rule, strikes and lockouts validly declared enjoy the protection of law and cannot be enjoined unless illegal acts are committed or threatened to be committed in the course of such strikes or lockouts. Ordinarily, the law vests in the NLRC the authority to issue injunctions to restrain the commission of illegal acts during strikes and pickets.

In national interest cases, the certification or assumption of jurisdiction by the Secretary of Labor over the dispute under Article 263 (g) of the Labor Code, as amended, has the effect of automatically enjoining the intended strike or lockout whether or not a corresponding return to work order has been issued. The workers shall immediately return to work and the employer shall immediately resume operations and re-admit all workers under the same terms and conditions of employment prevailing before the strike.

### **WHAT IS THE EXTENT OF THE POWER OF THE PRESIDENT OR THE SECRETARY OF LABOR AND EMPLOYMENT TO ISSUE ASSUMPTION AND CERTIFICATION ORDERS?**

The power to issue assumption and certification orders is an extraordinary authority strictly limited to national interest cases and granted to the President or to the Secretary of Labor, "which can justifiably rest on his own consideration of the exigency of the situation in relation to the national interest."

Pursuant to the provisions of Article 263 (g) of the Labor



Code, as amended, the Secretary of Labor is vested with the discretionary power to decide not only the question of whether to assume jurisdiction over a given labor dispute or certify the same to the NLRC, but also the determination of the industry indispensable to national interest.”

The President of the Philippines shall not be precluded from intervening at any time and assuming jurisdiction over any labor dispute involving industries indispensable to national interest in order to settle or terminate the same.”

Under Article 277 (b) of the Labor Code, as amended, the Secretary of the Department of Labor and Employment may suspend the effects of the termination pending resolution of the dispute in the event of a prima facie finding by the appropriate official of the Department of Labor and Employment before whom such dispute is pending that the termination may cause a serious labor dispute or is in the implementation of a mass lay-off.

**WHEN A DISPUTE IS ASSUMED BY THE PRESIDENT OR THE SECRETARY OF LABOR, OR CERTIFIED TO THE NLRC FOR COMPULSORY ARBITRATION, MAY A STRIKE OR LOCKOUT BE DECLARED ON ACCOUNT OF THE SAME DISPUTE?**

No. The assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout

**WHAT IS THE NATURE OF THE RETURN-TO-WORK ORDER?**

The return-to-work-order is a valid statutory part and parcel of the assumption and certification orders given the predictable prejudice the strike could cause not only to the parties but more especially to the national interest. Stated otherwise, the assumption of jurisdiction and the certification to the NLRC has the effect of automatically enjoining the strike or lockout, whether actual or intended, even if the same has not been categorically stated or does not

appear in the assumption or certification order. It is not a matter of option or voluntariness but of obligation. It must be discharged as a duty even against the worker's will. The worker must return to his job together with his co-workers so that the operation of the company can be resumed and it can continue serving the public and promoting its interest. x x x. It is executory in character and shall be strictly complied with by the parties even during the pendency of any petition questioning their validity x x x precisely to maintain the status quo while the determination is being made. (Union of Filipino Employees vs. Nestle Philippines, Inc., GR No. 88710-13, December 19, 1990).

**WHAT ARE THE LEGAL CONSEQUENCES IN CASES OF DEFIANCE OF THE RETURN-TO-WORK ORDER BY THE EMPLOYER AND BY THE EMPLOYEES?**

In case of non-compliance with the return-to-work order in connection with the certification or assumption of jurisdiction by the Secretary of Labor, the employees concerned may be subjected to immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of back-wages, damages and other affirmative relief, even criminal prosecution against either or both of them.

The Secretary of Labor may cite the defiant party in contempt pursuant to the power vested in him under the provisions of the Labor Code.

**CAN THE PHILIPPINE NATIONAL POLICE (PNP) BE DEPUTIZED TO ENFORCE ORDERS FROM THE DEPARTMENT OF LABOR?**

Yes. The Secretary of Labor and Employment, the National Labor Relations Commission (NLRC) or any Labor Arbiter may deputize the PNP to enforce any of its order, award or decision.

**IN CASE THE PNP IS DEPUTIZED TO ENFORCE ORDERS FROM THE DEPARTMENT OF LABOR, WHAT WILL BE ITS ROLE?**

In such a case, the role of the PNP is merely to assist the sheriff or the appropriate DOLE Officers in enforcing the decision, award or order. It shall maintain peace and order and public safety in the area where the decision, award or order is to be enforced. It shall also give security to the officers enforcing the decision, award or order. (Please see also Article 264 (d), Article 266 of the Labor Code as amended, and guidelines for the conduct of PNP During Strikes, Lockouts and Labor Disputes in General, Oct. 22, 1987).

### **WHAT IS A STRIKE AREA?**

A strike area includes: (a) the establishment of the employer struck against including run-away shops, factories or warehouses and other premises where members of the bargaining unit carry out the operations and business of the employer, and (b) the area immediately before points of entrance and exit of establishment struck against.

### **IS THE INGRESS AND EGRESS OF THE ESTABLISHMENT PART OF THE STRIKE AREA?**

No. Since it is not part of the strike area the same could not be blocked or picketed.

### **WHO IS A STRIKE-BREAKER?**

A strike-breaker means any person who obstructs, impedes or interferes with by force, violence, coercion, threats or intimidation any peaceful picket by employees during any labor controversy.