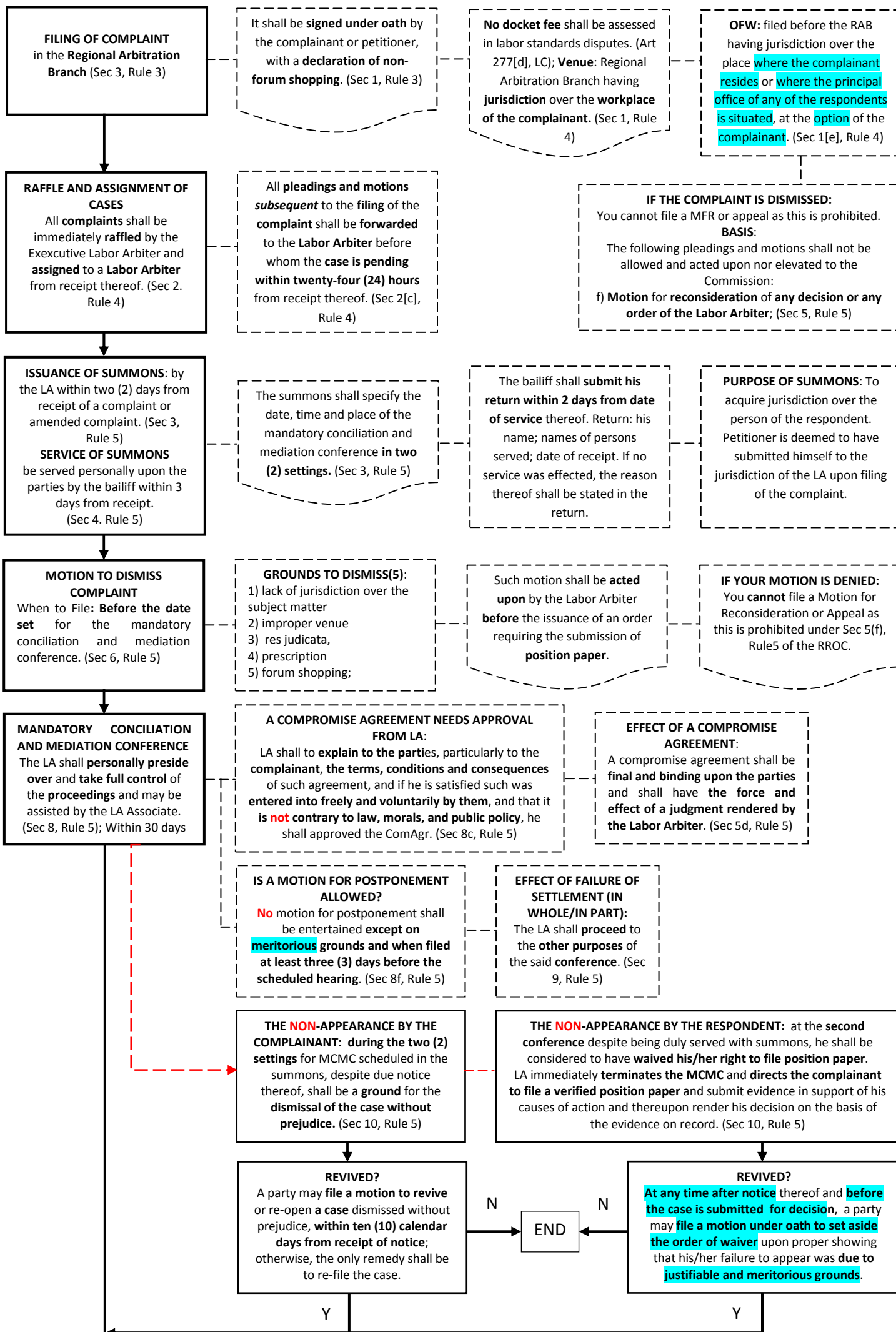


2011 NLRC RULES OF PROCEDURE FLOWCHART



VERIFIED POSITION PAPER
LA directs the parties to submit simultaneously their verified position papers within 10 calendar days from the date of termination of the MCMC.

REPLY
Reply may be filed by any party **within 10 days from receipt of the position paper** of the adverse party. (Sec 12d, Rule 5)

PP: cover only claims and causes of action stated in the complaint, including the **affidavits** of witnesses, which **shall take the place of their direct testimony**, excluding those that may have been amicably settled. (Sec12c, Rule 5)

AMENDMENT OF COMPLAINT
Filed before the LA at **any time before the filing of position paper**. No amendment of the complaint is allowed after the filing of position papers, **unless with leave** of the Labor Arbiter.

HEARING/CLARIFICATORY CONFERENCE:
LA shall, *motu proprio*, determine whether there is a need for a hearing or clarificatory conference. (Sec 13, Rule 5)

DETERMINATION OF NECESSITY: At the discretion of LA; He may ask **clarificatory questions to further elicit facts or information**, including but not limited to the **subpoena of relevant documentary evidence**, if any, from **any party or witness**. (Sec 13, Rule 5)

ROLE OF LA IN HEARING/CC: Take **full control** and **personally** conduct the hearing/cc; **Asks questions** for the purpose of **clarifying points of law or facts**. **Allows the presentation of testimonial evidence** with right of **cross-examination** by the **opposing party** and shall **limit the presentation of evidence** to matters **relevant** to the issue before him and necessary for a just and speedy disposition of the case.

WHEN CONDUCTED:
May be conducted immediately after the submission by the parties of their position paper or reply. (Sec 13, Rule 5)

DURATION:
Terminated w/n 30 **calendar days** from the date of the **initial clarificatory conference**. **OFW:** Not more than **60 days** (includes MCMC) - reckoned from the date of acquisition of jurisdiction by the Labor Arbiter over the person of the respondents.

LA makes a **written summary** of the **proceedings, including the substance of the evidence** presented, in consultation with the parties. The **written summary** shall be **signed** by the parties and shall **form part of the records**. (Sec 14b, Rule 5)

EFFECT OF NON-APPEARANCE OF PARTIES: **Proceedings shall be conducted ex-parte**. Thereafter, the case shall be deemed submitted for decision.

POSTPONEMENT/CONTINUANCE: No postponement or continuance shall be allowed by the Labor Arbiter, **except upon meritorious grounds**

SUBMISSION OF THE CASE FOR DECISION:
1) Upon submission of the parties of the PP;
2) Lapse of the period to submit the same;
3) Termination of the hearing/CC;

INHIBITION:
1) **Voluntarily** inhibit by stating the legal justifications;
2) **Upon a motion of a party - Ground:** a) **relationship** within the **fourth civil degree of consanguinity or affinity** with the **adverse party or counsel**; b) **on question of partiality or other justifiable grounds**; **Motion is resolved** w/n 5 days. An **order denying or granting a motion for inhibition is unappealable**.

CONTENTS OF DECISIONS:
a) facts of the case;
b) issues involved;
c) applicable laws or rules;
d) conclusions and the reasons therefor; and
e) specific remedy or relief granted. In cases involving **monetary awards**, the decisions or orders of the Labor Arbiter shall **contain the amount awarded**.

PERIOD TO DECIDE CASE:
LA shall render his/her decision **within thirty (30) calendar days**, w/o extension, after the submission of the case by the parties for decision, even in the absence of stenographic notes;

OFW: shall be decided within **ninety (90) calendar days after the filing of the complaint**.

FINALITY OF THE DECISION:
Becomes final and executory **after ten (10) calendar days** from receipt by the counselor or the parties: **IF no appeal is filed** with the **RAB of origin** w/n 10 calendar days from receipt of decision.

CERTIFICATE OF FINALITY:
Upon **expiration** of the period (**after 10 calendar days**), the Labor Arbiter shall issue a **certificate of finality**.

IF DECISION INCLUDES AN ORDER OF REINSTATEMENT: a) the **reinstatement aspect is immediately executory**; and b) **employer must submit a report of compliance** w/in ten (10) calendar days from **receipt** of the said decision.

ABSENCE OF RETURN CARDS, OR OTHER PROOFS OF SERVICE TO THE PARTIES: the LA may issue a **certificate of finality after sixty (60) calendar days from date of mailing**.

EXECUTION UPON FINALITY OF DECISION:
A writ of execution may be issued *motu proprio* or on motion, upon a decision that has become final and executory.

EXECUTION BY MOTION OR BY INDEPENDENT ACTION:
a decision or order may be executed on motion **within five (5) years from the date it becomes final and executory**. After the lapse of such period, the judgment shall become dormant, and may only be enforced by an **independent action** before the Regional Arbitration Branch of origin **and within a period of ten (10) years from date of its finality**.

APPEAL TO NLRC:
Within 10 calendar days from receipt of the decision/order;
WHERE TO FILE:
RAB of origin;
NLRC Decision is unappealable-remedy is Rule 65 of the RoC;
One MFR is allowed - filed within **10 calendar days** from receipt of the dismissal of the appeal.

GROUND:
1) **Prima facie evidence of abuse of discretion** on the part of the LA or RD
2) If the **decision/award/ order** was **secured through fraud or coercion**, including **graft and corruption**
3) **If made purely on questions of law**
4) If **serious errors in the findings of facts** are raised which, if **not corrected**, would cause **grave or irreparable damage or injury to the appellant.**

REQUISITES FOR PERFECTION OF APPEAL:
1) **filed within the reglementary period**
2) **verified by the appellant himself**
3) **in the form of a memorandum of appeal** which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision, award or order;
4) in three (3) **legibly typewritten** or printed copies; and
5) **accompanied by:**
i) **proof of payment of the required appeal fee** and legal research fee;
ii) **posting of a cash or surety bond** as provided in Section 6 of this Rule; and
iii) **proof of service upon the other parties.**

If the **10th or 5th day**, as the case may be, falls on a **Saturday, Sunday or holiday**, the last day to perfect the appeal shall be **the first working day following such Saturday, Sunday or holiday.**

REPLY TO THE APPEAL:
Appellee may file w/ the RAB or RO his reply **not later than 10 calendar days from receipt.** Failure to make such reply may be **construed as a waiver** on his part to file the same.

BOND:
In decisions of the LA or the RD involving **monetary award**, **an appeal by the employer may be perfected only upon the posting of a bond**, which shall either be in the form of **cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees.**
NO MOTION TO REDUCE BOND shall be entertained **except on meritorious grounds**, and only upon the **posting of a bond in a reasonable amount in relation to the monetary award.**
The mere **filing of a motion to reduce bond without complying** with the requisites in the preceding paragraphs shall **not stop** the running of the period to perfect an appeal. (6a)

EFFECT OF PERFECTION OF APPEAL ON EXECUTION:
The perfection of an appeal shall **stay the execution** of the decision of the Labor Arbiter **except execution for reinstatement pending appeal.**

EXECUTION OF REINSTATEMENT PENDING APPEAL:
If the employer disobeys or refuses to reinstate the dismissed employee, the LA 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.

PETITION FOR CERTIORARI IN THE COURT OF APPEALS:
(Rule 65)
WHEN TO FILE: **Not later than sixty (60) days** from notice of the judgment, order or resolution.
WHERE TO FILE: CA
GROUND: 1) Grave Abuse of Discretion amounting to lack or excess of jurisdiction; 2) Questions of facts or law.

EFFECT OF PETITION FOR CERTIORARI ON EXECUTION:
A petition for certiorari with the Court of Appeals or the Supreme Court shall **not stay the execution of the assailed decision unless a restraining order is issued by said courts.**

APPEAL BY CERTIORARI IN THE SUPREME COURT:
(Rule 45)
WHEN TO FILE: **within fifteen (15) days** from notice of the judgment or final order or resolution.
WHERE TO FILE: SC
GROUND: Questions of law