

**BRIEFING PAPER IN RE
PHILIPPINE AIRLINES (PAL) AND PHILIPPINE AIRLINES EMPLOYEES'
ASSOCIATION (PALEA)
LABOR DISPUTE**

This case involves the intended mass dismissal of almost 3,000 regular rank-and-file employees of Philippines Airlines, who are members and members and officers of the Philippine Airlines Employees' Association (PALEA), which termination is in violation of the law and of the collective bargaining agreement (CBA) of PAL and PALEA

Brief Statement of Facts

1. On August 26, 2009, in a Labor Management Cooperation Council (LMCC) meeting between the management and the union, PAL announced its intention of the management to spin-off/outsource - IT/Human Resources Benefits/Legal/Medical/Airport Services/Catering/Reservations/Ticket Offices/Revenue Accounting etc. citing losses incurred by the company. In said meeting, the union requested that the plan be kept a secret to managers and union members.
2. On September 9, 2009, PAL President formalized its communication to the union by way of a letter stating therein the intention of the management to spin-off/outsource the Airport Services Department and Catering Department. The same was to become effective 15 November 2009.
3. On 10 & 11 September 2009, the Union reminded PAL management that the one year extension of CBA suspension is due to expire, PALEA formally notified PAL of its intention to re-negotiate the remaining four years of the collective bargaining agreement (2009-2013)
4. During the LMCC meetings that ensued, PALEA stressed that the CBA negotiation is the most appropriate venue to thresh out unresolved issues on the planned outsourcing.
5. On 22 September 2009, due to the divergent positions of the parties, the union filed with the National Conciliation and Mediation Board (NCMB) a Notice of Preventive Mediation citing union busting as the sole and principal issue which was docketed as NCMB-NCR-PM-09-126-09. Several conciliation meeting were held between 25 September 2009 and 05 October 2009. The parties did not reach any agreement on the issue of outsourcing.
6. Meanwhile, in September 2009, PAL offered Early Retirement Program to its managers and administrative personnel which program was made optional/voluntary to the rank-and-file employees.

7. Without significant progress in the conciliation conferences, the union, on January 28, 2010, withdrew the Notice of Preventive Mediation and filed a Notice of Strike on the ground of union busting, particularly: (1) Intended mass lay-off of union members and officers by April 2010; (2) Illegal outsourcing or regular positions; (3) Direct negotiations with union members for them to avail of the ERP with promise of re-employment; (4) Unresolved issues during preventive mediation/LMCC; (5) Non-compliance with payscale, item II of the wage distortion case; and (6) Others.
8. Meantime, from 17-25 February 2010, union election of officers was held. The new set of Officers assumed their official functions on 29 March 2010. The outgoing officers, however officially turned over the keys of the union only on 20 April 2010.
9. During the intermediate period on 16 April 2010, PAL President issued a letter informing the union of the complete closure of several departments of the company and abolition of all affected regular positions by 31 May 2010. PAL management announced that 2,604 regular employees were sent notices of termination through registered mail. By reason of this notice, the new leadership initiated protest action on 19 & 23 April 2010.
10. On 23 April 2010, then DOLE Secretary Marianito Roque issued Assumption of Jurisdiction Order (AJ) which was received by the union on 26 April 2010 and by the management on 27 April 2010. The management, on 26-27 April 2010 issued Notices of Termination.
11. On April 30, 2010 and May 7, 2010, mediation/conciliation hearings were held. Then Usec. Rosalinda Baldoz chaired/conducted the said hearings. In the latter hearing, the parties agreed that the ASSUMPTION OF JURISDICTION issued by DOLE suspended the effects of the Notice of Termination.
12. The parties submitted their respective position papers, replies, rejoinders and motions on May 17 & 27 and 7 June 2010.
13. On 15 June 2010, after eight (8) calendar days or four (4) working days from the submission of the Rejoinder, and despite the pendency of the Motion for the

Production of Documents filed by the union, the Acting Secretary of Labor Romeo Lagman, rendered a Decision adverse to PALEA. The dispositive portion of the Decision reads:

"WHEREFORE, premises considered, this Office holds that the intended closure of the Philippine Airlines In-Flight Catering operations, Airport Services Operations and Call Center Reservations Operations and the consequent severance from employment of oil affected employees as reported to the DOLE Regional Offices, as well as the contracting out of the these operations to the named service providers, are based on lawful ground and all in a valid exercise of managerial prerogative and as such valid and lawful in all respects.

14. On 22 June 2010, around 300 members of PALEA conducted a two-hour protest rally in front of the DOLE office in Intramuros. It condemned the decision of the Acting Secretary as a Midnight Decision.
15. On the next day, 23 June 2010, around 600 PALEA members trooped to the residence of President Benigno Aquino at Times St., Quezon City. A letter accompanied by the case documents were delivered and received by the staff of the President. Among other things, the Union demanded the following:
 1. Presidential intervention in the PAL-PALEA dispute
 2. Cleansing of corrupt officials in the Department of Labor and Employment
 3. Reform of the policy regarding contractual employment.
16. On 28 June 2010, PALEA filed its Motion for Reconsideration. The filing was accompanied by a protest action that was attended by more or less 300 union members. PALEA argued that the retrenchment of almost 3,000 regular rank-and-file employees who are Union members, including Union officers, is invalid and constitutive of Unfair Labor Practice because:
 1. It violates the law and the parties' CBA
 - a. The termination of the regular employees is not necessitated by the company's financial situation.
 - b. PAL violated the CBA provision against Labor Contracting.
 - c. PAL violated the CBA provision on Job Security.
 2. It violates Article 248 of the Labor Code, and Department Order No. 18-02. Despite PAL's insistence, what it planned to do was not a "spin-off" but an "outsourcing" which is equivalent to contracting-out of services.
17. PALEA maintains that the real intention of PAL in pursuing its planned mass lay-off is to contractualize the regular positions now existing in the company with

the ultimate motive of BUSTING THE UNION. Coordination meetings are now being undertaken with local as well as foreign alliances in the labor movement with the intention to call for a Labor Solidarity in the fight against Contractual employment.

18. Meantime, the Union embarked on massive lobbying. Institutions such as the clergy, academe and Congress were involved. International alliances like the International Transports Workers Federation (ITF) also helped in the campaign.
19. The most remarkable of the above lobbying was the Privilege Speech delivered by TUCP Party-list Representative Raymond Mendoza last August 9, 2010. That, to the analysis of the Union, triggered interest in the House of Representatives. In the next day, PALEA was invited to a mini hearing by the House Committee on Labor. No less, it was attended by fourteen (14) congressmen.
20. On August 20, 2010, a conciliation conference was called by new DOLE Sec. Rosalinda Baldoz. In said hearing, the management manifested that "it shall await the resolution of the Motion for Reconsideration" filed by the Union. PALEA, on the other hand, manifested that it prefers that conciliation meetings be held further. The Union, however, manifested that management should first scrap its plan to terminate the 2,604 employees.
21. Last September 2, the Union, through the legal Counsels, received the documents previously demanded, by way of Motion to Produce Documents, but completely denied by then Sec. Romeo Lagman. These were PAL's financial statement for 2009-10, the contracts signed by the Company with Sky Kitchen and ePLDT Ventus (the Service Providers). It must be noted, though, that the contract between PAL and Sky Logistics, the service provider of the ground handling was not presented by PAL.
22. On 14 September 2010, PALEA submitted its comment to the documents above-mentioned. Notably, the financial statement provided by the Company show that PAL is no longer on the red. It has financially recovered and in fact already registered income.
23. Thus, it is the prayer of the Union that the Secretary of the Department of Labor and Employment reverse the decision dated 15 June 2010 by then Acting Secretary Romeo Lagman and issue a new decision:

1. Declaring the intended retrenchment/closure of the various department of PAL as illegal;
2. Declaring PAL guilty of unfair labor practice.

WORKERS UNITE!