

## Good Faith in Collective Bargaining

Manuel S. Tiaoqui

13 ATENEO L.J.381 (1964)

*TAGS(S): LABOR LAW AND SOCIAL LEGISLATION, COLLECTIVE  
BARGAINING*

The Article asserts that in collective bargaining between the employer and the union, both parties have a duty to bargain in good faith. Good faith in collective bargaining is necessary, not to simply regulate the parties' conduct, but to help them enter into a contract. Good faith, however, is a flexible concept that admits of various interpretations. The Author notes that the Labor Relations Board of the United States and American courts have attempted to define it. Taking cue from American jurisprudence, the Article outlines the different tests used in ascertaining the good faith of the employer or union in collective bargaining: (1) Totality of the Bargaining Conduct Test, which looks at the sincere effort and desire of a party to arrive at an agreement with the other party at all stages of the process; (2) Past Bargaining Test, which contrasts a party's present conduct with that in past negotiations and agreements; (3) Petty Bargaining, where the conduct of a party as regards a minor bargaining dispute may be seen as indicative of his overall faith; (4) Flexibility, which shows a party's ability to relinquish some of its demands as long as the parties could agree on other matters; and 5) Justification of a party's conduct. The Article then highlights two main indices of lack of bad faith: (1) The refusal to sign an agreement, once reached, and (2) unilateral action during the process of bargaining.

The Author also points out that good faith may also be determined from the parties' willingness to share information needed to arrive at an agreement. In collective bargaining, it is important that both sides are able to understand each other's situation, and to arrive at that end, transparency is necessary. As such, the Author concludes with a discussion on the importance of wage data and financial data in producing intelligent bargaining.