

The Prudence of Complying with Due Process Requirements and its Financial Consequences in Employee Termination

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The Philippine Constitution recognizes labor as a primary social economic force. Nonetheless, it also recognizes the indispensability of capital in the process of production. Thus, the Constitution mandates that both the laborer and the capitalist be protected.

In compliance with this mandate, Presidential Decree No. 442, entitled “A Decree Instituting a Labor Code, Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Ensure Industrial Peace Based on Social Justice,” declares that no service of an employee may be terminated without a just or an authorized cause, and without due process. In this Article, the due process that an employer must observe in terminating the services of his employee and the ramifications of the employer’s non-observance to the abovementioned due process are discussed.

As reflected in the country’s case law, the doctrine on the monetary indemnification that an employer must pay to an employee who was dismissed for a just or an authorized cause but without due process has been changing. The Authors, with reference to cases decided from 1984 to 2009, discuss the three varying doctrines that the Supreme Court has laid over the subject matter: the *Wenphil* Doctrine, the *Serrano* Doctrine, and the *Agabon* and *Jaka Foods* Doctrines.

Observing that the pattern of judicial decisions on the issue gives no assurance that the prevailing doctrine will not be reversed, modified, or ignored in future cases, the Authors conclude by giving three lessons for the employers to learn. First, employers must always observe due process no matter how convinced they are of the employee’s guilt. Second, there is no assurance that the Supreme Court will not revert back to the *Serrano* Doctrine. Third, there is no assurance that the Supreme Court will ignore altogether the current doctrine on the subject matter. As a final note, the Authors provide that the constant change in the doctrines should warn employers to always observe due process.