

Labor, social security and immigration Practice Newsletter

March 16th, 2018

Sanctions for absences on summons by the Employment Protection Agency.

The Guidelines for the Application of Sanctions contained in Article 530 Bis of the Federal Labor Law, issued by the Employment Protection Agency, were published in the Mexican Official Gazette this past March 12, 2018.

Such guidelines were issued to regulate the conciliation meetings and the application of sanctions in case of absence by employers or unions, to conciliatory meetings appointed by the Employment Protection Agency. In general, the guidelines contain the following:

- All Employment Protection Agencies can summon employers or unions, to attend a conciliatory meeting, advising them that in case of absence they could be fined with up to 100 Measurement and Update Units (hereinafter "UMA's") current at the moment of the absence.
- In case the party who requested the conciliatory meeting is the one who fails to attend, the conciliatory meeting will then be automatically withdrawn, unless such party proves that there was a justified cause for the absence within the following 10 days and provided there is still enough time to hold the meeting without the risk of the main action being elapsed.
- The summon given to the employer or union must contain:
 - 1.- Name of the employer or union,
 - 2.- Date of the citation,
 - 3.- Place, date and time to hold the conciliatory meeting,
 - 4.- Legal grounds,
 - 5.- Name of the employee, and
 - 6.- Possible sanctions for absence.
- The notification of the conciliatory meeting must be effected by the officer, at least 48 hours before the the date in which the conciliatory meeting takes place.
- All of the conciliators will have the following obligations:
 - a) Motivate the parties to reach a settlement,
 - b) Propose solutions from an impartial standpoint,
 - c) Ratify all agreements reached by the involved parties,
 - d) Prepare a monthly report of the conciliatory meetings held,
 - e) Prepare a minute of each conciliatory meeting held, and
 - f) Asses all employees regarding their labor and social security rights, and providing, if required, legal representation free of charge.

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- In case of absence to the conciliatory meeting of the employer or the union, the Employment Protection Agency will impose a fine of up to 100 UMA's, current at the moment of the absence. Such fine will be proportionally individualized, according to the following criteria:
 - i) Background,
 - ii) Economic capacity, and
 - iii) Recidivism.
- The Employment Protection Agency will notify the sanction to the competent Tax Authorities so they may proceed with its collection. The Tax Authorities will provide a bimonthly report of the sanctions, through any mechanism where its identification and follow-up is clear.

The above guidelines will become enforceable the day after their publication in the Mexican Official Gazette; nevertheless, the application of any sanction determined prior to these guidelines will not be subject to them.

Our practice of Labor, Immigration and Social Security has extensive experience in the discharge of conciliatory meetings before the Employment Protection Agency, achieving favorable settlements and avoiding any possible related fines.

We hope you may find this information useful. Be certain that it would be a pleasure for the **Labor, Social Security and Immigration Practice** members of **Sánchez Devanny Eseverri, S.C.** to assist you with your related matters in order to facilitate your operations in Mexico. For more information please contact in Mexico City, **Alfredo Kupfer Domínguez** by email: akupfer@sanchezdevanny.com or by phone at +52 55 5029.8500; in Monterrey, Nuevo Leon, contact **David Eugenio Puente Tostado** by email: dpt@sanchezdevanny.com or by phone at +52 81 8153-3900; and in Queretaro, Queretaro, contact **Sebastian Rosales Ortega** by email: srosales@sanchezdevanny.com or by phone at +52 44 2296.6400; or visit our website at www.sanchezdevanny.com.

Contact

Alfredo Kupfer-Domínguez

akupfer@sanchezdevanny.com

David Eugenio Puente-Tostado

dpt@sanchezdevanny.com



Mexico City
T. +52 (55) 5029.8500
www.sanchezdevanny.com

Monterrey
T. +52 (81) 8153.3900

Querétaro
T. +52 (442) 296.6400