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MÜGGENBURG,
GORCHES Y PEÑALOSA**LABOR. A CC RULED THAT PREJUDICIAL CONCILIATION IS UNNECESSARY WHEN A WOMAN WITH CANCER CHALLENGES UNJUSTIFIED EMPLOYMENT TERMINATION**[More Information...](#)

The First Circuit Court of the Fifteenth Circuit, resolved the amparo claim 30/2023 and determined that when a woman with cancer challenges unfair employment termination related to unjustified absences, it is unnecessary to exhaust prejudicial conciliation.

This decision is based on the fact that, in the new labor justice system, conciliation is a mandatory prejudicial instance, elevated to constitutional status in article 123, section A, subsection XX, of the Mexican Constitution. It is an essential component of the right to access justice and, as a general rule, must be exhausted before resorting to judicial proceedings.

However, the legislator established exceptions in article 685 Ter, section I, of the Federal Labor Law, for conflicts inherent to discrimination in employment and occupation due to pregnancy, as well as reasons of sex, sexual orientation, race, religion, ethnic origin, social status, or sexual harassment. Therefore, when the plaintiff is a woman with cancer, the mere assertion that she was unjustifiably terminated from her job due to her illness must be judged with a gender perspective and subjected to strict scrutiny, according to the last paragraph of article 1 of the Mexican Constitution. Consequently, she may directly proceed to the labor claim without prior prejudicial conciliation.

ADMINISTRATIVE. THE REGIONAL PLENUM IN ADMINISTRATIVE MATTERS RULED THAT AN AMPARO CLAIM FILED THROUGH THE ELECTRONIC COURT FOR ADMINISTRATIVE JUSTICE (“TEJA”) OF THE ADMINISTRATIVE COURT OF THE STATE OF MEXICO WITHOUT AN ELECTRONIC SIGNATURE COMPLIES WITH THE PRINCIPLE OF INSTANCE OF THE AGGRIEVED PARTY[More Information...](#)

The Regional Plenum in Administrative and Civil Matters of the Central-North Region, based in Mexico City, resolved the Contradiction of Criteria 246/2023 and determined that an amparo claim filed through TEJA without an electronic signature complies with the principle of instance of the by the aggrieved party that governs the amparo claim.

In this regard, this matter derived from a contradiction criteria held by the CC’s when examining the validity of an amparo claim filed through TEJA as established in the Agreement that sets forth the general guidelines for the use, proper functioning, and incorporation of information and communication technologies in administrative and judicial processes provided by the Administrative Court of the State of Mexico, published in the State of Mexico Official Gazette on July 20, 2021. One CC held that the filing of the claim without an autograph signature meets the principle of instance of the aggrieved party, as it is possible to identify the person who uploaded the document to the system through the used username; the other CC established that the filing of the claim with a scanned signature does not meet this principle, as an electronic signature is required and not a digitized version of the autograph signature.

In this sense, the Plenum based its decision on the contradiction of thesis 220/2017 issued by the Second Chamber of the SCJN, which determined that the lack of a coordination agreement between the Federal Judiciary Council and the Local Judicial Powers is not attributable to individuals but to judicial authorities. Although electronic filings through TEJA are not done with the Certified Electronic Signature of the Federal Judiciary (“FIREL”), the Advanced Electronic Signature (“FIEL”), or the Advanced Electronic Signature of the Judiciary of the State of Mexico (“FEJEM”), the registration and obtaining of the password in TEJA constitute objective elements that demonstrate the will of the claimants to promote the amparo claim, as they allow the identification of the person using it and ensure that the user has the authority to do so.

Furthermore, although there is no technological interconnection agreement between the Federal Judiciary Council and the State of Mexico Administrative Court, under Article 178 of the Amparo Law, the secretaries of the TEJA of the State of Mexico must certify the elements that allow the verification of the linkage of the person who filed the claim through TEJA. This enables the identification of the user who filed it, and if such certification has not been sent, the CC is empowered to request it, as it constitutes the parameter that satisfies the principle of instance of the aggrieved party.

CIVIL. THE REGIONAL PLENUM IN CIVIL MATTERS DETERMINED THAT THE GRANTING OF PROVISIONAL INJUNCTION IS ADMISSIBLE WHEN THE SEIZURE OF BANK ACCOUNTS ORDERED IN A COMMERCIAL CLAIM IS CHALLENGED[More Information...](#)

The Regional Plenum in Civil Matters of the Central-South Region, based in Guadalajara, Jalisco, resolved the appeals 341/2023 and 345/2023 and determined that the granting of provisional injunction is admissible when the seizure of bank accounts ordered in a commercial proceeding is challenged. This aims to lift the seizure on the amount secured by the assets of the debtor legal entity, limited to the contributions made by the plaintiff in the amparo claim.

This matter derived from diverse criteria held by the Circuit Courts when resolving appeals arising from amparo claims in which provisional injunction was requested against the seizure of bank accounts ordered as a precautionary measure in ancommercial claim against a legal entity and its partners. One court held that it is applicable to lift the seizure on the amount guaranteed by the assets of the debtor legal entity and up to the amount of the contributions of the plaintiff; Meanwhile, the other considered it inapplicable as it constituted a restitutory effect which is proper to the amparo final ruling.

The decision of the Plenum’s was based on the fact that the provisional injunction of the seizure of the plaintiff’s bank accounts, maintaining the guarantee by the debtor, provides anticipatory protection similar to that of amparo claim. That is, it does not annul the precautionary measure but only adjusts the seizure. If the amparo is denied, the consequences of the injunction can be reversed, given its transitory and brief nature of the injunction. The precautionary measure guarantees the original claim with the seizure on the society’s assets and the bond for the injunction.

Furthermore, the First Chamber of the Mexican Supreme Court of Justice (“SCJN”) in contradiction of thesis 14/2012 establishes that the ruling is executed first on the society’s assets and, if insufficient, on the partners’ assets up to their participation, according to article 24 of the General Law of Commercial Companies. In this sense, the injunction does not harm the social interest nor contravene public order, affecting only the private sphere of the parties. Finally, the District Judge must verify compliance with legal requirements and a sufficient guarantee to cover possible damages.

LABOR. A CIRCUIT COURT “CC” DETERMINED THAT THE DISMISSAL OF A CLAIM IS APPROPRIATE WHEN CHALLENGING THE VALIDITY OF A WORK TERMINATION AGREEMENT RATIFIED BEFORE A CONCILIATION AND ARBITRATION COURT, DUE TO DEFECTS IN CONSENT[More Information...](#)

The First Circuit Court in Labor Matters of the Seventh Circuit, resolved the amparo claim 1087/2022 and determined that the dismissal of a labor claim is appropriate when challenging the validity of a work termination agreement ratified before a Conciliation and Arbitration Court, due to defects in consent.

This decision is based on the interpretation a *contrario sensu* of articles 48, fifth paragraph, and 872, in conjunction with article 873 of the Federal Labor Law. It concludes that although the aforementioned regulation does not explicitly include the concept of dismissal for inadmissibility, when the plaintiff seeks to annul an agreement ratified before the Court, admitting and examining the claim would disrupt the agreement between the parties, which has already been elevated to the status of definitive resolution. This is deemed inadmissible in accordance with jurisprudence thesis 2a./J. 17/2015 (10a.), titled and subtitled: “LABOR AGREEMENT SANCTIONED BY THE CONCILIATION AND ARBITRATION COURT. THE CHALLENGE FOR NULLITY IS INAPPROPRIATE WHEN THE WORKER ALLEGES RENUNCIATION OF RIGHTS (ABANDONMENT OF JURISPRUDENCE 2a./J. 105/2003, 2a./J. 162/2006, 2a./J. 195/2008, AND 2a./J. 1/2010)”, as continuing the procedure would lead to no practical outcome, and the plaintiff would not achieve a different result.

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