

The logo features the letters 'CCN' in a vertical stack inside a white square on the left. To its right, the word 'NEWSFLASH' is written in a large, bold, white, sans-serif font. The background is a dark blue image of hands typing on a keyboard.

CCN NEWSFLASH

Recent jurisprudence - assessing the weight of evidence in employee resignations

#157 March - April 2022 | April 20, 2022

Recently, the Fifth Collegiate Labor Court of the First Circuit published judicial precedent number I.5o.T. J/1 L (11 a.), titled "Resignation. Standards for weighing evidence that courts must consider if an employee argues that a resignation was forced, and he received instructions to execute it, and the employer states the termination was voluntary."

In this decision, the Court held that when the employer alleges that the termination of the employment relationship was voluntary, and the employee argues that he was forced to sign his resignation and, even received instructions to do so, the employer must prove the existence of the original resignation, which must contain with certainty elements to demonstrate convincingly and logically the intent, voluntary nature, and spontaneity of the employee's decision to resign.

Additionally, the Court determined that if the employer can show the above evidence, it shall fall on the employee to show, among other requirements, the influence, coercion or alleged physical, moral or economic intimidation of the employer. However, the employee is required only to provide objective indications that reasonably allow one to conclude that consent attributed to the voluntary termination of the labor relationship was questionable or uncertain. The employee's proof shall evidence the suspicion, doubt or likelihood of concluding the absence of required safety, autonomy and free will conditions to underlie the resignation, or otherwise that such show that the human rights of the employee were violated. The above will apply since the Court recognized the existence of disproportionate or unequal positions between employers and employees from an economic, social and cultural perspective, as well as the existence of practical situations in which, among others, the firing of the employee is intentionally concealed.

Contact:

Adrián Salgado

Partner

asalgado@ccn-law.com