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## Labor and Employment Update

### *Employers Have Standing to Request Protective Orders under the Anti-Stalking Law*

Employers in Puerto Rico are required to have protocols to address the effects of violence in the workplace, both in the form of “domestic violence” and “stalking”, which are two separate legal concepts. See *Law No. 217-2006*. The first is (1) a pattern of physical force or psychological violence, intimidation or persecution, (2) against a current or former spouse or a domestic or consensual partner or the parent of one’s child, (3) to cause bodily, property or serious emotional harm. The second is (1) a pattern of constant vigilance or physical or visual proximity, repeated verbal or written unwanted communications or threats, vandalism or harassment, (2) to stalk or unsettle the victim or its family.

Employers are required to make reasonably necessary workplace adjustments to protect employees who are victims of such conduct from a potential aggressor, which duty arises once it is advised that a dangerous situation can occur. See *Law No. 271-2006, which amended Law No. 100-1959*.

Since 2004, the Law Against Domestic Violence (Law 54-1989) conferred employers standing to request protective orders for the benefit of their employees, visitors or anyone on their premises, when acts of domestic violence occurred in the workplace. Employers, however, had no similar standing under the Anti-Stalking Law of 1999. Law No. 99-2016, approved last July 30, filled that gap. Now employers can request a protective order when acts of stalking occur in the workplace, regardless of the relationship between the victim and the stalker.

More than a prerogative, the affirmative duties to maintain a protocol against workplace violence and to make workplace adjustments to protect employees who are victims of domestic violence or stalking, can turn these standing provisions into legal obligations in certain circumstances. For instance, the possibility of seeking a protective order can be one of the tools to address workplace violence that an employer may have to include in its legally required Protocol to address workplace violence. Also, if an employer is aware that an act of domestic violence or stalking has occurred in the workplace, yet fails to request a protective order, it may be failing its legal obligations to protect employees. Whether that is the case depends on the particular circumstances surrounding the situation. The attorneys of Reichard & Escalera are available to assist employers in evaluating these situations and in complying with these legal requirements.

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