

# First USMCA Labor Complaint Promises New Challenges for U.S., Mexican Manufacturers

By James M. Stone & James P. Verdi

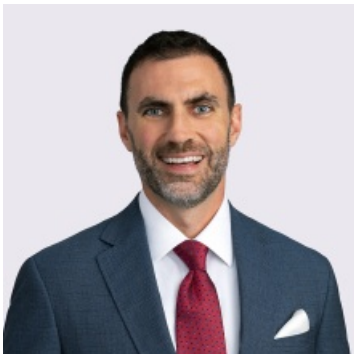
May 13, 2021

## Meet the Authors



**James M. Stone**

Principal  
(216) 750-4307  
James.Stone@jacksonlewis.com



**James P. Verdi**

Principal  
James.Verdi@jacksonlewis.com

## Related Services

International Employment  
Labor Relations  
Manufacturing

Unions in the United States and Mexico have taken a significant step under the United States-Mexico-Canada Agreement (USMCA) to interject the United States into labor disputes in Mexico by filing the first complaint under the USMCA's rapid response mechanism against an auto parts supplier in Mexico.

This action, and significant support for greater union organization from the Biden Administration, will require manufacturers to adjust to the new reality of labor relations in Mexico.

### Background

Under the USMCA, Mexico committed to implement labor reforms that would radically change Mexico's labor laws and adopt a system similar to the National Labor Relations Act. Mexico subsequently overhauled its federal labor law in May 2019 and continues to implement the new laws.

A unique term in the USMCA is the right for any individual, union, or organization to file a complaint with the United States against an individual facility *in Mexico* for violating workers' rights to organize or collectively bargain. Once a complaint is filed, the United States is compelled to investigate the alleged violations. If it finds evidence of a violation, it can prosecute the violation through a "rapid response mechanism," which includes a unique labor arbitration between the parties. Any individual company in Mexico that is found to violate the new labor obligations could lose its preferential tariff rates available through the USMCA, significantly harming the company's ability to import good into the United States — and the supply chain that U.S. companies require. (For details, see our article, [Pressures on U.S. Manufacturers with Mexico Operations, Supply Chains to Comply with New Labor Laws.](#))

Based on prior commitments from President Joe Biden to be "the strongest labor president supporters have ever had," U.S. unions have promised to file complaints under the rapid response mechanism since January 2021.

### First Rapid Response Complaint

The AFL-CIO, the SEIU, the independent Mexican union *Sindacato Nacional Independiente de Trabajadores de Industrias y de Servicios Movimiento 20/32* (SNITIS), and other advocacy groups collectively filed the first complaint in the United States to invoke the rapid response mechanism. The complaint was filed against Tridonex, a subsidiary of the U.S. company Cardone that manufactures auto parts in Matamoros. The complaint alleges the company interfered in free union elections and wrongfully terminated numerous employees for their union support, among other charges. The AFL-CIO released a statement promising to work with Mexican unions and the Biden Administration to fully implement Mexico's new labor obligations under the USMCA.

The complaint must be investigated by the U.S. Interagency Labor Committee, which is led by the Secretary of Labor and the U.S. Trade Representative. If the Interagency Labor Committee finds evidence of a violation, the U.S. Trade Representative will file a petition for a rapid response panel, and the company could lose access to preferential tariffs.

### What Employers Can Do

U.S. manufacturers that depend on trade or supply chains with Mexico face unique new challenges. Mexican companies must prepare for investigations into new and unfamiliar labor obligations led by U.S. investigators who have different expectations for labor relations than most Mexican companies. Additionally, U.S. companies dependent on Mexican manufacturing must take steps to ensure their suppliers comply with the USMCA's labor provisions to avoid sudden and costly disruptions to their own operation.

\*\*\*

Jackson Lewis attorneys assist companies in cross-border risk assessments to ensure employers — and their suppliers — comply with their labor obligations under USMCA to protect supply chains and prepare for potential U.S. investigations into their labor relations. If you have any questions about labor obligations arising under the USMCA, please contact a Jackson Lewis attorney.

©2021 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.