

NFI Regulatory and Enforcement Summary Post Cal Cartage Acquisition

On October 2017, NFI acquired the California-based family of companies, Cal Cartage. NFI/Cal Cartage includes four major trucking companies at the ports of Los Angeles and Long Beach: K&R Transportation, CMI, Cal Cartage Express, and Container Freight and the Cal Cartage warehouse located on Port of Los Angeles property. Some of these companies have been facing multiple complaints in the courts and government agencies for misclassifying port truck drivers and violating workers' rights at the warehouse. These complaints have continued despite the new ownership by NFI.

The following are lawsuits and investigations by various government agencies taking place since October 2017:

California Division of Labor Standards Enforcement (DLSE)

Since October 2017, 24 drivers at Cal Cartage Express (CCX) and California Multimodal (CMI) have filed claims with the DLSE. In December 2018, the DLSE issued Order, Decision or Award (ODAs) for all 24 drivers and found that they are employees and not independent contractors. In total, the drivers have been awarded **\$5.9 million**. The ODAs have been appealed by CCX and CMI and remain pending.

Company	Date filed	No. of drivers	ODA date	Amount awarded
CCX	August 2018	14	December 2018	\$3,734,341.74
CMI	October 2017	10	December 2018	\$2,172,889.99

Litigation

There are currently four active lawsuits against various NFI/Cal Cartage companies related to the misclassification of port truck drivers. Three of these pending litigation actions were filed by the Los Angeles City Attorney on behalf of the People of the State of California for violation of California's Unfair Competition Law (UCL) by misclassifying port truck drivers as independent contractors, evading paying taxes, and not providing benefits to drivers.

Company	Case	Case number	Date filed
K&R	Juan Jose Rodriguez v K&R Transportation LLC	19STCV03772	February 6, 2019
CMI	The People of the State of California v. CMI Transportation	BC689321	January 8, 2018
K&R	The People of the State of California v. K&R Transportation	BC689322	January 8, 2018
CCX	The People of the State of California v. California Cartage Express	BC689320	January 8, 2018

National Labor Relations Board (NLRB)

Since October 2017, three Unfair Labor Practice (ULP) charges have been filed against NFI owned Cal Cartage warehouse with the NLRB:

- On October 2018, new unfair labor practice (ULP) charges were filed against NFI owned Cal Cartage warehouse and CORE Employee Management, a staffing agency and joint employer, for interrogation of employees about union and protected concerted activities; threatening employees with job loss; and threatening employees with plant closure. The case remains pending.
- On September 28, 2018 Region 21 of the NLRB issued a consolidated complaint and notice of hearing to NFI California Cartage Holding Company, California Cartage Distribution, and California Transload Services as a single employer, and against these same NFI group entities and CORE Employee Management as joint employers. The complaint alleges numerous violations of the National Labor Relations Act (NLRA), including for disciplining and terminating a warehouse worker in retaliation for his union activities and other protected concerted activities, such as informing his co-workers of their right to take a heat break, and actually encouraging and taking a heat break with them. The case was settled in December 2018.
- On February 28, 2018, Administrative Law Judge (ALJ) Ariel Sotolongo issued a decision finding that California Cartage and its subsidiary Orient Tally violated workers' rights at the 2401 E. Pacific Coast Highway, warehouse, including engaging in unlawful interrogation, implied threats of termination, and confronting workers in a physically aggressive fashion. This decision ordered the company to cease and desist the unlawful behavior, and was issued following a hearing held in June 2017. The case arose after Region 21 of the National Labor Relations Board (NLRB) issued a March 2016 Consolidated Complaint (Cases: 21-CA-160242 and 21-CA-162991) against California Cartage for ULP charges. On December 4, 2018, the NLRB issued a decision on the exceptions to ALJ Sotolongo's decision and reversed his finding regarding the implicit threats. The case was closed on March 20, 2019.

City of Los Angeles

- Los Angeles City Office of Wage Standards (OWS) — There are currently **two pending investigations against two NFI-owned trucking companies for violations of Los Angeles' Minimum Wage Ordinance (MWO)**, K&R and CCX.
 - In November 2018, drivers at Cal Cartage Express filed a claim for unpaid minimum wages and failure to provide paid sick days.
 - In a similar pending case, in October 2018, the Office of Wage Standards requested the Board of Public Works issue a subpoena to obtain payroll information necessary to conduct an investigation of wage theft at K&R Transportation. Both investigations remain pending.
- Port of Los Angeles Board Harbor Commission and Los Angeles City Council
 - On May 8, 2017, the **LA City Council rejected the Board of Harbor Commissioners approval of California Cartage's Foreign-Trade Zone (FTZ) operating agreement at the Port of Los Angeles.** Under this federal program, California Cartage's customers received incentives such as deferred and reduced tariffs. After asserting jurisdiction over the matter, the City Council voted unanimously to veto the Harbor Board of Commissioners' approval of the permit due to the multiple violations at the facility such as health and safety and labor violations, which place California Cartage in violation of the terms of the FTZ operating agreement.
 - On January 16, 2019, NFI announced that it would shut down its operations at the Wilmington warehouse. A week after the announcement, the **Board of Harbor Commissioners voted to finalize a settlement and gave NFI six months to vacate Port property.** Previous to this, on October 12, 2018, the Los Angeles City Council vetoed the Board of Harbor Commissioners' earlier approval of a revocable permit between the Port of Los Angeles and California Transload Services LLC. The council's unanimous vote sent the land use agreement back to the Board of Harbor Commissioners and requested that they include "safeguards to protect against labor disruptions." An amending motion was also introduced for the Port of Los Angeles to begin looking for a new tenant and requiring that any new tenant retain the

workers employed at the warehouse. As a result, the Port of Los Angeles issued a thirty-day notice that required Cal Cartage to vacate the property.

Below is a list of NFI/California Cartage enforcement violations by issuing agency.

Department of Labor

NFI Division	Violation	Date	Amount	Notes
California Cartage Transportation	Prevailing Wage	9/13/18	\$3,573,074	Failure to pay the prevailing Wage at Customs Examination Station in Carson, CA. Press Release
NFI	Wage & Hour	8/25/16	\$1,072,061	NFI claimed several positions were exempt from overtime, and did not keep proper records. National investigation Press Release

OSHA Violations

NFI Division	Violation	Date	Amount	Notes
California Cartage LLC	Inspection# 1152445.015 Various violations	Open	\$37,150	Repeat citation for failure to maintain forklift brakes, unsafe work practices, no injury & illness prevention plan, failure to chock trailer tires. NFI is continuing to fight this citation. Wilmington, CA
California Cartage LLC	Inspection# 1079165.015 Various violations	Open	\$11,250	Violations include: failure to provide protective footwear, unsafe grinding protections (machine shop), forklift bakes are not properly maintained. Wilmington, CA
National Distribution Center – Trucking	Inspection # 1259338.015 3324(A)	2/8/18	\$1,125	A Worker at truck yard injured their back while closing a gate, NFI was cited because they failed to maintain proper safeguards for manually operated gates. Chino, CA

The following NFI OSHA violations predate the acquisition of California Cartage Transportation but demonstrate violations of OSHA standards which would be repeated on Port of Los Angeles property.

NFI Division	Violation	Date	Amount	Notes
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National Distribution Center- NFI	Inspection# 316208636 Multiple violations	12/27/12	\$338,710	Repeated violations – footwear protection, unsafe walkway/forklift paths, hazardous work equipment, insufficient safety training, and other violations. Mira Loma, CA
National Distribution Center	Inspection# 314757121 Multiple violations	6/13/13	\$43,490	12 violations including fall prevention, floor hazards, unsafe operation of trucks/tractors. Chino, CA
National Distribution Center	Inspection# 314757618 3203(A)	2/2/12	\$18,000	Failure to maintain injury & illness prevention plan. Chino, CA

Equal Employment Opportunity Commission (EEOC)

While these violations occurred prior to NFI purchasing California Cartage, they are included to show a pattern, over time, of NFI's behavior with regard to workers civil and employment rights.

NFI Division	Date	Amount	Notes
NFI RoadRail, LLC and NFI Industries, Inc.,	2016	\$45,000	A female executive sued NFI for gender discrimination when she accidentally found a pay stub of the executive she replaced and saw the disparity in pay. Dallas/Irving TX region. Press Release
NFI Interactive Logistics	2015	\$180,000	Five employees filed a race and national origin discrimination complaint against NFI. The five employees were subject to racial and national origin harassment. Chicago region Press Release 1 2