

NFI Final and Pending Violations Summary

NFI is one of the largest logistics companies in North America with locations, including port trucking operations and warehouses, in the U.S. and Canada.¹ On October 2017, NFI acquired the California-based Cal Cartage family of companies that included port trucking and warehouse operations.² In Southern California, NFI/Cal Cartage is the largest trucking operator at the ports of Los Angeles and Long Beach. The port trucking subsidiaries include California Cartage Express, California Multimodal, K&R Transportation, and ContainerFreight.

NFI and its related California Cartage companies have faced numerous investigations from different local, state, and federal agencies as well as private lawsuits and wage and hour complaints brought on by port drivers and warehouse workers. The continued investigations and repeated claims show a pattern of lawbreaking that has continued for several years, both before and after NFI's acquisition of Cal Cartage.

FINAL FINDINGS

The following are findings of civil and criminal liability against NFI and its affiliates:

NFI Industries

Criminal Court

- *USA v. Interactive Logistics, Inc.* - In 2005, NFI affiliate Interactive Logistics, Inc., pled guilty to three counts of wire fraud after defrauding a client, Anheuser-Busch, of approximately \$225,000. The Department of Justice's criminal complaint against NFI asserted, among other things, that the elaborate fraud scheme was directed by senior executives.³ The three current NFI principals, also principals of the defendant affiliate, authorized the affiliate's guilty plea to all counts.⁴

Department of Labor (DOL)

- The federal Department of Labor, between 2003 and 2019, cited NFI and its affiliates for hundreds of violations of the Fair Labor Standards Act.⁵ The DOL found that at NFI locations around the country, the company unlawfully paid dispatchers flat salaries, regardless of the number of hours they worked, even though the dispatchers were entitled to overtime, and that, despite paying "yard spotters" by the hour, the company unlawfully denied those spotters overtime wages. At the conclusion of its investigation in 2016, the DOL issued a press release announcing that the company was required to pay \$1,072,061 to 357 employees to remedy its numerous violations of the law.
- Two years before, in August 2016, the DOL Wage and Hour Division found NFI violated the Fair Labor Standards Act (FSA) when it wrongly classified workers as exempt from the law's overtime requirements, failed to pay the legally required wages, and failed to maintain payroll records as required by law. NFI was ordered to pay \$1 million to 357 workers.

¹ <https://www.nfiindustries.com/>

² California Cartage Co. Acquired by NFI Industries. (2017, October 3). Retrieved from <http://labusinessjournal.com/news/2017/oct/03/california-cartage-co-acquired-nfi-industries/>

³ *USA v. Interactive Logistics, Inc.*, D.N.J. Case No. 05-cr-00872, Dkt. No. 1 (Compl. ¶¶ 10-14).

⁴ *Id.*, Dkt. No. 2 (Unanimous Action by the Shareholders & Directors of Interactive Logistics, Inc., d/b/a NFI Interactive Logistics, Inc.).

⁵ See, *inter alia*, DOL Wage & Hour Div. Case IDs 1690496, 1775692, 1775694, 1775696, 1775699, 1775701, 1775703, 1775707, and 1812719.

National Labor Relations Board (NLRB)

- In two separate 2010 cases, administrative law judges (ALJ) found NFI liable for violating the National Labor Relations Act, including by maintaining unlawful restrictions on employee speech at approximately 50 NFI facilities nationwide,⁶ and by disciplining an employee in retaliation for his union support.⁷ NFI did not file exceptions to either of the judges' orders, and the NLRB adopted the orders in the absence of exceptions.⁸

Occupational Safety and Health Administration (OSHA)

- On August 24, 2017, OSHA issued a citation against NFI as a result of an injury of a worker at an NFI truck yard that resulted in the worker's hospitalization.⁹ NFI was cited because the company failed to maintain proper safeguards for manually-operated gates and fined \$1,125. The case was closed in April 2018.
 - Standard cited by OSHA: 3324(A) - Horizontal Sliding Gates

Cal Cartage Southern California Warehousing and Trucking Operations

Occupational Safety and Health Administration (OSHA)

- On May 2016, OSHA issued a repeat citation against the Cal Cartage warehouse in Wilmington, CA for failure to maintain forklift brakes, unsafe work practices, having no injury and illness prevention plan, and failure to chock trailer tires.¹⁰ NFI appealed this decision, and in March 2019, an ALJ issued a decision. NFI had to pay a penalty of \$37,150 and the case was closed in May 2019. The standards cited by OSHA include:
 - 3337(A) – Dock Plates and Loading Ramps
 - 3650(B)(4) – Industrial Trucks – General
 - 3650(T)(7) – Industrial Trucks – General
 - 3661(C) – Brakes and Warning Devices
 - 3661(B) – Brakes and Warning Devices

Department of Labor (DOL)

- In September 2018, the DOL Wage and Hour Division ordered California Cartage Company to pay \$3.5 million to 1,416 employees for failure to pay the prevailing wage at customs examination stations in the city of Carson, CA. Cal Cartage was found to have violated federal contract provisions of the McNamara-O'Hara Service Contract Act (SCA).¹¹

⁶ *NFI Indus., Inc.*, NLRB Case No. 04-CA-036842, 2010 NLRB LEXIS 9, ALJ Decision at *15-16 (NLRB Jan. 8, 2010).

⁷ *NFI Interactive Logistics*, NLRB Case No. 25-CA-031011, 2010 NLRB LEXIS 345 (NLRB Sept. 10, 2010).

⁸ <https://www.nlr.gov/case/04-CA-036842>; <https://www.nlr.gov/case/25-CA-031011>.

⁹ Occupational Safety and Health Administration, Inspection No. 1259338.015
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1259338.015

¹⁰ Occupational Safety and Health Administration, Inspection No. 1152445.015
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1152445.015

¹¹ US Department of Labor press release <https://www.dol.gov/newsroom/releases/whd/whd20180913>

National Labor Relations Board (NLRB)

- 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 its warehousing operation in Wilmington CA, including engaging in unlawful interrogation, implied threats of termination, and confronting workers in a physically aggressive fashion. This decision was issued following a hearing held in June 2017 and ordered the company to cease and desist the unlawful behavior. 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 the underlying unfair labor practice charges. On December 4, 2018, the NLRB issued a decision reversing the finding regarding the implicit threats but otherwise upholding ALJ Sotolongo's decision. The case was closed on March 20, 2019.

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.¹² 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 placed California Cartage in violation of the terms of the FTZ operating agreement. As a result, California Cartage lost its FTZ status at that site.

California Employment Development Department (EDD)

- There are at least four K&R Transportation drivers who have been determined to be employees—and not independent contractors—by the California EDD in individual benefits determinations and therefore awarded benefits. Since June 2017, the EDD has filed at least 12 tax liens against K&R Transportation for a total of \$172,982.

SETTLEMENTS AND PENDING DECISIONS

The following are wage claims, court cases, and various agency investigations that remain pending or which ended in a settlement:

California Cartage Express

- California Cartage Express has faced multiple lawsuits in courts and complaints with government agencies for violations of state and local laws related to the misclassification of port truck drivers. Below is a summary of those investigations, complaints, and lawsuits faced by Cal Cartage Express:

Division of Labor Standards Enforcement (DLSE)

- At least 20 wage claims have been filed with the DLSE against Cal Cartage Express by port drivers. The Labor Commissioner's office has issued decisions in 15 of those cases, finding all 15 drivers to be employees of Cal Cartage Express—awarding them \$3.8 million in unpaid wages and penalties—and in violation of the following labor laws:
 - I.W.C. Wage Order 9-2001 section 4 – minimum wages

¹² Official Action of the Los Angeles City Council, May 8, 2018 http://clkrep.lacity.org/onlinedocs/2013/13-0440-S1_CA_05-08-2018.pdf

- Violation of Labor Code section 201 – failure to pay wages due upon termination
- Labor Code section 221 – unlawful deductions from employees’ wages
- Labor Code section 224 – deductions made fall outside of the four exceptions
- Labor Code Section 226.2 – unpaid wages for nonproduction hours
- Labor Code section 2802 – business expenses unlawfully passed on to employees

14 of those cases have been appealed to Los Angeles County Superior Court and remain pending. The other claim, originally filed in 2014, appears to have been settled in 2018 for an undisclosed amount. The remaining five claims were filed in June 2019 and remain pending with an estimate liability of \$1 million.

Los Angeles City Attorney

- On January 8, 2018, Los Angeles City Attorney Mike Feuer announced that his office had filed lawsuits against three NFI-owned trucking companies, including Cal Cartage Express. The lawsuit was filed on behalf of The People of the State of California for violation of California’s Unfair Competition Law by misclassifying port truck drivers as independent contractors.¹³ The case remains pending. The two causes of action and related violations listed in the complaint include:
 - Violation of Unfair Completion Law (Misclassification) Business and Professions Code §§ 17200, *et seq.*
 - Failure to pay Unemployment Insurance taxes in violation of Unemployment Insurance Code section 976
 - Failure to pay Employment Training Fund taxes in violation of Unemployment Insurance Code section 976.6
 - Failure to pay State Disability Taxes in violation of Unemployment Insurance Code section 984
 - Failure to withhold State income taxes as required by Unemployment Insurance Code section 13020
 - Failure to provide workers compensation as required by Labor Code section 3700
 - Failing to provide employees with itemized written statements in violation of Labor Code section 226, and to maintain and provide employees with records in violation of I.W.C. Wage Order 9, subsection 7
 - Failure to reimburse employees for business expenses and losses in violation of Labor Code section 2802
 - Failure to ensure payment of the minimum wage at all times required by Labor Code section 1194 and I.W.C. Wage Order 9, subsection 4
 - Second cause of action - Violation of Unfair Completion Law (Trucking Regulations) Business and Professions Code §§ 17200, *et seq.*
 - Violation of federal truck leasing regulations codified at 49 CFR § 376.12

Los Angeles City Office of Wage Standards (OWS)

- On November 2018, six Cal Cartage Express drivers filed complaints against their employer for failure to pay the City’s minimum wage and failure to provide paid sick days. The Office of Wage Standards opened a company-wide investigation, which remains pending. Cal Cartage is being investigated for violations of the following:
 - Los Angeles Municipal Code § 187 or Ordinance No. 184320

¹³ *The People of the State of California v. California Cartage Express*, Case No. BC689320

The estimated liability for the entire Cal Cartage Express workforce approximates \$10 million in restitution and penalties combined.

Private Litigation

- On January 2015, port drivers filed a class action lawsuit against Cal Cartage Express for the following labor code violations:¹⁴
 - Labor Code § 226.8 – willful misclassification
 - Labor Code § 204 – failure to pay all hours worked
 - I.W.C. Wage Order 9, section 8 – unlawful deductions from wages
 - I.W.C. Wage Order 9, section 3, Labor Code section 510 – failure to pay overtime
 - Labor Code § 510, 1194 – failure to pay minimum wage
 - Labor Code § 201, 203 – failure to pay wages upon separation
 - Labor Code § 226 – failure to provide accurate wage statements
 - Labor Code § 512, I.W.C. Wage Order 9 section 11 – failure to provide meal breaks
 - Labor Code § 226.7, I.W.C. Wage Order 9 section 12 – failure to provide rest breaks
 - Labor Code § 2802 – business expenses unlawfully passed on to employees
 - Violation of Unfair Completion Law Business and Professions Code §§ 17200, *et seq.*

In December 2017, the case settled for \$3.5 million and a final judgment was issued August 10, 2018.

K&R Transportation

Division of Labor Standards Enforcement (DLSE)

- Since 2014, at least 20 K&R drivers have filed wage claims with the DLSE. The Labor Commissioner’s office has issued decisions in at least 14 of those cases, finding the company violated California’s labor laws and finding the drivers to be employees, awarding them \$1.7 million in owed wages and penalties. 10 of those claims remain pending in court as K&R appealed the Labor Commissioner’s decision and the remaining four were settled. The Labor Commissioner found K&R in violation of the following labor laws:
 - I.W.C. Wage Order 9-2001 section 4 – minimum wages
 - Violation of Labor Code section 201 – failure to pay wages due upon termination
 - Labor Code section 221 – unlawful deductions from employees’ wages
 - Labor Code section 224 – deductions made fall outside of the four exceptions
 - Labor Code Section 226.2 – unpaid wages for nonproduction hours
 - Labor Code section 2802 – business expenses unlawfully passed on to employees

Los Angeles City Attorney

- On the same day that Los Angeles City Attorney Mike Feuer filed a lawsuit against Cal Cartage Express, he also filed a lawsuit against K&R Transportation for violation of California’s Unfair Competition Law by misclassifying port drivers as independent contractors. The case remains pending in court.¹⁵ Similar to Cal Cartage Express, the two causes of action and related violations listed in the complaint include:

¹⁴ *Campos v. California Cartage Company LLC et al*, Case No. BC570310

¹⁵ *The People of the State of California v. K&R Transportation*, Case No. BC689322

- Violation of Unfair Completion Law (Misclassification) Business and Professions Code §§ 17200, *et seq.*
 - Failure to pay Unemployment Insurance taxes in violation of Unemployment Insurance Code section 976
 - Failure to pay Employment Training Fund taxes in violation of Unemployment Insurance Code section 976.6
 - Failure to pay State Disability Taxes in violation of Unemployment Insurance Code section 984
 - Failure to withhold State income taxes as required by Unemployment Insurance Code section 13020
 - Failure to provide workers compensation as required by Labor Code section 3700
 - Failing to provide employees with itemized written statements in violation of Labor Code section 226, and to maintain and provide employees with records in violation of I.W.C. Wage Order 9, subsection 7
 - Failure to reimburse employees for business expenses and losses in violation of Labor Code section 2802
 - Failure to ensure payment of the minimum wage at all times required by Labor Code section 1194 and I.W.C. Wage Order 9, subsection 4
- Second cause of action - Violation of Unfair Completion Law (Trucking Regulations) Business and Professions Code §§ 17200, *et seq.*
 - Violation of federal truck leasing regulations codified at 49 CFR § 376.12

Los Angeles City Office of Wage Standards (OWS)

- Drivers at K&R Transportation filed complaints with the Office of Wage Standards against their company for failure to pay the City's minimum wage and failure to provide sick days. In October 2018 the OWS requested that the Board of Public Works of the City of Los Angeles issue a subpoena to obtain payroll information necessary to conduct a company-wide investigation of wage theft at K&R Transportation. The OWS investigation of K&R Transportation is for violations of the Los Angeles Municipal Code § 187 or Ordinance No. 184320. The estimated liability for the entire K&R workforce approximates \$9 million or more in restitution and penalties combined. The investigation remains pending.

Private Litigation

- On February 6, 2019, K&R Transportation drivers filed a class action lawsuit against the company.¹⁶ The causes of action and related violations include:
 - Violation of Labor Code § 226.8(a)(1) – Misclassification of Employees
 - Violation of Labor Code §§ 221, 224, 226 and 2802 – Unlawful Deductions and Reimbursable Expenses
 - Violation of Labor Code §§ 1194, 1194.2 and 1197 – Unpaid Minimum Wages
 - Violation of Labor Code § 203 – Waiting Time Penalties;
 - Violation of Labor Code § 204 – Failure to Pay All Wages Owed Every Pay Period
 - Violation of Labor Code §§ 226.7 and 512 – Meal Periods and Rest Periods
 - Violation of Labor Code §§ 226 and 226.3 – Itemized Wage Statements
 - Violation of Labor Code §§ 201 *et seq.* – Failure to Pay Final Wages on Time
 - Violation of Labor Code §§ 1174, 1174.5 – Failure to Maintain Accurate Records
 - Violation of Business and Professions Code §§ 17200 *et seq.* – Unfair Competition

¹⁶ *Juan Jose Rodriguez v K&R Transportation LLC*, Case No. 19STCV03772

- About three years earlier, on September 19, 2016, K&R and Container Freight port truck drivers filed a similar class action lawsuit against their employer in San Bernardino Superior Court.¹⁷ The case settled right before the NFI acquisition of Cal Cartage for \$469,482. In their lawsuit, the drivers included the following causes of action:
 - Violation of Labor Code § 226.8(a)(1) – Misclassification of Employees;
 - Violation of Labor Code §§ 221, 224, 226 and 2802 – Unlawful Deductions and Reimbursable Expenses;
 - Violation of Labor Code §§ 1194, 1194.2 and 1197 – Unpaid Minimum Wages;
 - Violation of Labor Code § 203 – Waiting Time Penalties;
 - Violation of Labor Code § 204 – Failure to Pay All Wages Owed Every Pay Period;
 - Violation of Labor Code §§ 226.7 and 512 – Meal Periods;
 - Violation of Labor Code §§ 226.7 and 512 – Rest Periods;
 - Violation of Labor Code §§ 226 and 226.3 – Itemized Wage Statements;
 - Violation of Business and Professions Code §§17200 et seq. – Unfair Competition;
 - Violation of Labor Code § 2698 et seq. – Private Attorney General Act

California Multimodal (CMI)

Division of Labor Standards Enforcement (DLSE)

- Since 2014, 22 CMI drivers have filed wage claims with the California Labor Commissioner. Of these, the Labor Commissioner’s office has issued decisions in the cases of 15 drivers finding them to be employees of CMI and awarding the drivers \$2.8 million in owed wages and penalties. Five of those 15 claims have been settled and the remaining 10 are still pending on appeal. In the most recent 10 ODAs, the Labor Commissioner found CMI had violated the following California labor laws:
 - I.W.C. Wage Order 9-2001 section 4 – minimum wages
 - Labor Code section 201 – failure to pay wages due upon termination
 - Labor Code section 221 – unlawful deductions from employees’ wages
 - Labor Code section 224 – deductions made fall outside of the four exceptions
 - Labor Code Section 226.2 – unpaid wages for nonproduction hours
 - Labor Code section 2802 – business expenses unlawfully passed on to employees

Los Angeles City Attorney

- On January 2018, the same day that Los Angeles City Attorney Mike Feuer filed a lawsuit against Cal Cartage Express and K&R, he also filed a lawsuit against CMI Transportation for violation of California’s Unfair Competition Law.¹⁸ Similar to Cal Cartage Express and K&R, the two causes of action and related violations listed in the complaint include:
 - Violation of Unfair Completion Law (Misclassification) Business and Professions Code §§ 17200, et seq.
 - Failure to pay Unemployment Insurance taxes in violation of Unemployment Insurance Code section 976
 - Failure to pay Employment Training Fund taxes in violation of Unemployment Insurance Code section 976.6
 - Failure to pay State Disability Taxes in violation of Unemployment Insurance Code section 984

¹⁷ *Jose Constanza v K&R Transportation LLC, et al.*, Case No. CIVDS1615424

¹⁸ *The People of the State of California v. CMI Transportation*, Case No. BC689321

- Failure to withhold State income taxes as required by Unemployment Insurance Code section 13020
- Failure to provide workers compensation as required by Labor Code section 3700
- Failing to provide employees with itemized written statements in violation of Labor Code section 226, and to maintain and provide employees with records in violation of I.W.C. Wage Order 9, subsection 7
- Failure to reimburse employees for business expenses and losses in violation of Labor Code section 2802
- Failure to ensure payment of the minimum wage at all times required by Labor Code section 1194 and I.W.C. Wage Order 9, subsection 4
- Second cause of action - Violation of Unfair Completion Law (Trucking Regulations) Business and Professions Code §§ 17200, *et seq.*
 - Violation of federal truck leasing regulations codified at 49 CFR § 376.12

Occupational Safety and Health Administration (OSHA)

- On September 16, 2015, a CMI port driver was killed during work hours at the Port of Long Beach. As a result, OSHA issued a citation against CMI in March 2016 citing the following standard:¹⁹
 - Standard Cited:3314(C) (18B-CA) Servicing Moving Machinery/Equipment

The Citation and Notice of Penalty stated, “Prior to and during the course of the inspection, including but not limited to on September 16, 2015, the employer, California Multimodal, LLC did not ensure that the vehicle California license plate 9E33300 was stopped and the power source de-energized or disengaged, and the tires mechanically blocked to prevent inadvertent movement, while attachments including air, electrical and other chassis trailer connecting means were disconnected behind the cab of the truck. As a result, on or about September 16, 2015 a driver sustained fatal injuries at 700 Pier Plaza when the vehicle inadvertently moved and rolled forward on him, crushing him under the driver’s-side rear tire(s).” CMI contested the citation and the investigation remains open.

Private Litigation

- On June 3, 2019, port drivers filed a misclassification class action lawsuit against CMI Transportation.²⁰ The case remains pending. In their complaint, drivers allege CMI Transportation violated California’s labor laws, including:
 - Violation of Labor Code § 226.8 – Intentional Misclassification of Employees
 - Violation of Labor Code § 2802 – Reimbursable Expenses
 - Violation of Labor Code §§ 1194, 1194.2 and 1197 – Unpaid Minimum Wages
 - Violation of Labor Code § 203 – Waiting Time Penalties
 - Violation of Labor Code § 204 – Failure to Pay All Wages Owed Every Pay Period
 - Violation of Labor Code §§ 226.7 and 512 – Meal Periods and Rest Periods
 - Violation of Labor Code §§ 226 and 226.3 – Itemized Wage Statements
 - Violation of Business and Professions Code §§ 17200 *et seq.* – Unfair Competition
 - Violation of Labor Code §§ 1174, 1174.5 – Failure to Maintain Accurate Records

¹⁹ Occupational Safety and Health Administration, Inspection No. 1125088.015
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1125088.015

²⁰ *Raul Llamas et al v CMI Transportation LLC*, Case No. 19STCV19291

- In 2016, CMI also faced a lawsuit as a result of the death of a port driver.²¹ The family filed a wrongful death lawsuit against CMI and the terminal operator at the Port of Long Beach. The case settled in 2018.
- On June 2015, CMI port truck drivers filed a class action lawsuit against their employer, CMI Transportation.²² The case settled around the time of the NFI acquisition of Cal Cartage for \$3.4 million. The causes of action included:
 - § 226.8(a)(1) – Misclassification of Employees;
 - §§ 221, 224, 226 and 2802 – Unlawful Deductions and Reimbursable Expenses;
 - §§1194, 1194.2 and 1197 – Unpaid Minimum Wages;
 - § 203 – Waiting Time Penalties;
 - § 204 – Failure to Pay All Wages Owed Every Pay Period;
 - §§ 226.7 and 512 – Meal Periods and Rest Periods;
 - §§ 226 and 226.3 – Itemized Wage Statements;
 - § 17200 *et seq.* – Unfair Competition;
 - § 2698 *et seq.* – Private Attorney General Act

Cal Cartage Warehouse

Occupational Safety and Health Administration (OSHA)

- On July 2015, OSHA issued citations against the Cal Cartage warehouse for failure to provide protective footwear, unsafe grinding protections, and failure to maintain forklift brakes.²³ The inspection remains open and NFI faces an \$11,250 penalty. The standards cited by OSHA include:
 - 3660(A) – Rated Capacity
 - 3362(F) – General Requirements – Vermin
 - 3577(E) – Protection devices - Work Rests
 - 3622(G)(2) - All scaffold wheels, casters and swivels shall be provided with a positive locking device, or other effective means to prevent movement of the scaffold.
 - 5144(E)(1) - Respiratory Protection – General
 - 5144(F) - Respiratory Protection – Fit testing
 - 23400012 A -
 - 3385(A) – Foot protection
 - 3578(G) – Permissible Wheel Exposure for Periphery Grinding - Exposure Adjustment.
 - 3661(B) – Brakes and Warning Devices

National Labor Relations Board (NLRB)

Workers at the NFI-owned Cal Cartage warehouse previously in Wilmington CA have filed multiple Unfair Labor Practice (ULP) charges with the NLRB against their employer, several which are still pending:

- Between December 2016 and March 2018, workers filed multiple unfair labor practice (ULP) charges against NFI-owned Cal Cartage warehouse, Orient Tally, and CORE Employee Management (staffing agencies and joint employers), for violations of the National Labor Relations Act (NLRA). The most serious of these violations include the company’s CEO threatening employees with job-loss

²¹ *Wilfredo Vasquez et al. v SSA Marine Inc. et al.*, Case No. BC623611

²² *Mario Francisco Martinez v California Multimodal, LLC.*, Case No. BC583858

²³ Occupational Safety and Health Administration, Inspection No. 1079165.015
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1079165.015

and plant closure.²⁴ These violations were so coercive that they made it impossible for employees to have a free and fair election over whether to join together to collectively bargain.²⁵ This case— involving both the unfair labor practices and election inference by the employer—remains pending. The charges filed include:

- 8(a)(1) Coercive Actions (Surveillance, etc.)
 - 8(a)(1) Coercive Statements (Threats, Promises of Benefits, etc.)
 - 8(a)(3) Changes in Terms and Conditions of Employment
 - 8(a)(3) Discharge
 - 8(a)(1) Coercive Rules
 - 8(a)(1) Interrogation (including Polling)
 - 8(a)(1) Concerted Activities (Retaliation, Discharge, Discipline)
- 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. The case was settled in December 2018.²⁶ The charges filed include:
 - 8(a)(1) Coercive Actions (Surveillance, etc.)
 - 8(a)(1) Coercive Statements (Instructing Employees not to Engage in Protective concerted activity, etc.)
 - 8(a)(3) Discharge (Including Layoff and Refusal to Hire (not salting))
 - 8(a)(3) Changes in Terms and Conditions of Employment
 - 8(a)(1) Concerted Activities (Retaliation, Discharge, Discipline)
 -

Private Litigation

- On December 17, 2014, workers from the California Cartage warehouse in Wilmington at the Port of Los Angeles filed a class action lawsuit alleging millions of dollars in wage theft, primarily for failure to comply with the Los Angeles Living Wage Ordinance, which applies to businesses such as California Cartage that contract with the City of Los Angeles.²⁷ On November 28, 2018, the court issued a final approval of a \$1.9 million settlement the workers reached with the company.

NFI Industries

Occupational Safety and Health Administration (OSHA)

In California, and previous its acquisition of Cal Cartage, NFI has faced at least three OSHA investigations and been cited for health and safety violations.

²⁴ *California Cartage Company, Orient Tally Company, Core Employee Management*, NLRB Case No. 21-CA-190500 <https://www.nlr.gov/case/21-CA-190500>

²⁵ *California Cartage Company, Orient Tally Company, Core Employee Management*, NLRB Case No. 21-RC-188813 <https://www.nlr.gov/search/cases/21-RC-188813>

²⁶ *NFI California Cartage Holding Company, California Cartage Distribution, California Transload Services*, NLRB Case No. 21-CA-213042 <https://www.nlr.gov/search/cases/21-CA-213042>.

²⁷ *Carlos Ayala, et al. v. California Cartage Company, Inc., et al*, Case No. BC566992

- On January 13, 2013 OSHA cited NFI for 12 violations at a Chino, CA warehouse and issued a penalty of \$43,490.²⁸ A settlement was reached and the case was closed in June 2013. The 12 standards cited include:
 - 25000010 A
 - 3385(A) – Foot protection
 - 3577(E) – Protection devices - work rests.
 - 3578(G) – Permissible Wheel Exposure for Periphery Grinding - Exposure Adjustment.
 - 3203 (A) – Injury and Illness Prevention Program
 - 23400024
 - 25000025
 - 3656 (E) – Order Pickers and Stock Pickers
 - 3241 (C) – Live loads
 - 5185 (L) – Changing and Charging Storage Batteries
 - 4353 (G) – Stationary Compaction Equipment and Balers
 - 3650 (T)- Industrial Trucks – General

- In December 2012, OSHA issued six citations against NFI for repeat violations that included footwear protection, unsafe walkway/forklift paths, hazardous work equipment, insufficient training, and others at their Mira Loma, CA location.²⁹ NFI faced a penalty of \$308,435. A settlement was reached and the case was closed in July 2014. The violations are for the following six standards:
 - 3216 (B) – Exit Signs
 - 3272 (B) – Aisles, Walkways, and Crawlways
 - 3272 (C) – Aisles, Walkways, and Crawlways
 - 3385(A) – Foot protection
 - 3339 (A) – Cargo, Materials, or Equipment
 - 3203 (A) (07) – Injury and Illness Prevention Program

- In February 2012, OSHA issued a serious citation against NFI for failure to maintain injury and illness prevention plan at their Chino, CA location.³⁰ NFI faces an \$18,000 penalty. The case file shows it has not yet been closed. The standard cited:
 - 3203 (A) – Injury and Illness Prevention Program

Equal Employment Opportunity Commission (EEOC)

- The EEOC filed a gender discrimination lawsuit against NFI when the company paid a female director less than three other male directors.³¹ Both of the following statutes were violated by NFI according to the EEOC's lawsuit. In March 2016, the case settled and NFI paid \$45,000 as part of the settlement. Gender discrimination is illegal under the following statutes:
 - Equal Pay Act of 1963 (EPA)
 - Title VII of the Civil Rights Act of 1964

²⁸ Occupational Safety and Health Administration, Inspection No. 314757121
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=314757121

²⁹ Occupational Safety and Health Administration, Inspection No. 316208636
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=316208636

³⁰ Occupational Safety and Health Administration, Inspection No. 314757618
https://www.osha.gov/pls/imis/establishment.inspection_detail?id=314757618

³¹ *EEOC v NFI Road Rail LLC and NFI Industries, Inc.*, Case No. 3:14-cv-00181-N

- In September 2014 , the EEOC filed a lawsuit against NFI for harassment based on race and national origin.³² In the lawsuit, the EEOC charges that NFI subjected African-American workers to offensive language and a noose symbol in its Bolingbrook, IL location. In June 2015 NFI settled the case for \$180,000.

³² *EEOC v. NFI Interactive Logistics, LLC.*, Case No. 14-cv-07569