

April 14, 2023

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Private Attorneys General Act – Filing

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Imperial CFS, Inc.
Tong Hsing Hsu, Registered Agent for Service of Process
1000 Francisco Street
Torrance, CA 90502

Re: *Arturo Marron v. Imperial CFS, Inc., et al.*

Dear California Labor and Workforce Development Agency and Imperial CFS, Inc.:

Please be advised that Alami Law Group represents Arturo Marron (“Claimant”). Claimant intends to seek penalties, on behalf of himself and all other aggrieved employees, against his former employer Imperial CFS, Inc. (“Employer”) pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code Sections 2698 *et seq.* This correspondence serves as Claimant’s written notice by online filing with the Labor and Workforce Development Agency (“LWDA”) and by certified mail to the Employer of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code Section 2699.3(a)(1).

Specific Provisions of the Labor Code Alleged to Have Been Violated

Claimant alleges Employer has violated Labor Code Sections 201, 202, 203, 204, 206, 210, 221, 223, 226, 226.3, 226.7, 227.3, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, and 2802.

Facts and Theories Supporting the Alleged Violations

Employer employed Claimant as a non-exempt employee in California within the past year. Claimant’s primary job duties included, *inter alia*, unloading shipping and freight containers at Employer’s warehouse in Torrance, California.

Employer employed and/or currently employs other aggrieved employees as non-exempt employees in California. The aggrieved employees consist of all non-exempt employees employed by Employer during the “PAGA Period,” which is defined as commencing from one

year prior to the submission of this letter to the LWDA and certified mailing to Employer through the present.

During the PAGA Period, Employer failed to pay Claimant and/or other aggrieved employees minimum, regular, overtime, and/or double time wages for all hours worked at the legally mandated rates. During the PAGA Period, Claimant and/or other aggrieved employees regularly worked more than eight (8), 10, and/or 12 hours per workday and/or over 40 hours per workweek. Employer's practices and policies deprived Claimant and/or other aggrieved employees of minimum, regular, overtime, and/or double time wages for work they performed off the clock. Specifically, Employer required Claimant and/or other aggrieved employees to complete work-related tasks off the clock. Employer rounded Claimant and/or other aggrieved employees' hours worked, thereby depriving them of wages for all hours worked at the legally mandated rates. Employer did not compensate Claimant and/or other aggrieved employees for all hours worked because Claimant and/or other aggrieved employees were regularly on-duty during their meal and/or rest periods. Finally, Employer failed to accurately calculate the regular rate of pay, and thereby the proper overtime and double time rate of pay, for Claimant and/or other aggrieved employees. *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858, 863 (2021). Accordingly, Employer failed to pay Claimant and/or other aggrieved employees the proper minimum, regular, overtime, and double time wages for all hours worked, in violation of Labor Code Sections 204, 206, 210, 223, 226.2, 510, 511, 558, 1194, 1194.2, 1197, 1197.1, and 1198.

During the PAGA Period, Employer failed to authorize and permit and/or make available to Claimant and/or other aggrieved employees timely off-duty 30-minute meal periods within the appropriate time intervals required by Labor Code section 512 and Section 11 of the applicable IWC Wage Order(s). Specifically, Claimant and/or other aggrieved employees frequently had their meal periods shortened, interrupted, late, and/or missed altogether due to Employer's practice of understaffing and prioritizing work demands over taking compliant breaks. In addition, Employer failed to authorize and permit and/or make available to Claimant and/or other aggrieved employees second meal periods when they worked more than 10 hours. Moreover, Employer rounded Claimant and/or other aggrieved employees' time punches for meal periods. Accordingly, Employer failed to authorize and permit and/or make available to Claimant and/or other aggrieved employees timely, uninterrupted off-duty meal periods for at least 30 minutes when they worked more than five (5) hours and/or 10 hours in a workday, and failed to compensate Claimant and/or other aggrieved employees with an additional hour of pay at their regular rate of pay for every day in which they were denied a compliant meal period, in violation of Labor Code Sections 226.7 and 512, and the applicable IWC Wage Orders.

During the PAGA Period, Employer failed to authorize and permit and/or make available ten-minute rest periods for every four (4) hours or major fraction thereof worked. Employer failed to implement a compliant rest break policy and/or practice, and failed to provide uninterrupted, off-duty 10-minute rest breaks. Claimant and/or other aggrieved employees missed their rest breaks or had them interrupted or governed by Employer's practices and policies. Employer also failed to adopt and implement a practice of providing third rest breaks when Claimant and/or other aggrieved employees worked over 10 hours. Notwithstanding the above rest break

violations, Employer failed to compensate Claimant and/or other aggrieved employees with an additional hour of pay at their regular rate of pay for every day in which they suffered a rest period violation. Accordingly, Employer violated Labor Code Section 226.7 and the applicable IWC Wage Orders.

During the PAGA Period, Employer failed to reimburse Claimant and/or other aggrieved employees for all business expenses incurred for Employer's benefit. For example, Claimant and/or other aggrieved employees were required to use their personal cell phones to discuss work-related matters with Employer's representatives without any reimbursement. Claimant and/or other aggrieved employees were also required to clean, wash, and iron their uniforms (which were the Employer's property) after they became heavily soiled as a direct result of their job duties without any reimbursement. Finally, Claimant and/or other aggrieved employees were required to purchase tools to complete their job duties without any reimbursement. Accordingly, Employer violated Labor Code Sections 2800 and 2802.

During the PAGA Period, Employer failed to calculate sick pay at the regular rate of pay for the workweek in which Claimant and/or other aggrieved employees used paid sick time, or by dividing the Claimant and/or other aggrieved employees' total wages, not including overtime premium pay, by the Claimant and/or other aggrieved employees' total hours worked in the full pay periods of the prior 90 days of employment, in violation of Labor Code Sections 246, 246.5, 247, 247.5, and 248.5 and the Healthy Workplaces, Healthy Families Act of 2014. Accordingly, Employer violated Labor Code Sections 226, 226.3, 1174, and 1174.5. *Wood v. Kaiser Found. Hosps.*, 2023 WL 2198664 (Cal. Ct. App. Feb. 24, 2023) (a plaintiff may pursue penalties under PAGA for alleged violations of California's sick pay statute, the Healthy Workplaces, Healthy Families Act of 2014).

During the PAGA Period, Employer failed to provide to Claimant and/or other aggrieved employees accrual of vacation wages and failed to pay to Claimant and/or other aggrieved employees vested vacation wages. Accordingly, Employer violated Labor Code Section 227.3.

As a result of, and in addition to, the Labor Code violations, Employer failed to provide accurate itemized wage statements that accurately reported, among other things, the gross and net wages earned, the total hours worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate. As a result, Employer violated Labor Code Sections 226 and 226.3. Similarly, Employer failed to maintain accurate and complete records showing the hours worked daily by and the wages paid to Claimant and/or aggrieved employees due to the violations described above. Accordingly, Employer violated Labor Code Sections 1174 and 1174.5.

Every employer violates Labor Code Section 1199 if it: (a) requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. As a result of, and in

addition to, the foregoing Labor Code violations, Employer has violated Labor Code Section 1199.

As a result of, and in addition to, the foregoing Labor Code violations, Employer failed to timely pay all wages owed throughout Claimant and/or other aggrieved employees' employment and following the end of their employment. Accordingly, Employer violated Labor Code Sections 201-204, and 210.

During the PAGA Period, as a result of, and in addition to, the foregoing Labor Code violations, Employer secretly paid Claimant and/or aggrieved employees less than the statutory or contractual rate. Accordingly, Employer violated Labor Code Sections 221 and 223.

Based on these violations, Claimant will seek attorneys' fees, costs, and penalties under the Labor Code on behalf of himself and all other aggrieved employees who were employed by Employer during the PAGA Period. Please advise if the Labor and Workforce Development Agency has any objection to Claimant alleging PAGA claims in a lawsuit against Employer. Should you have any questions, comments, or concerns, please do not hesitate to contact the undersigned.

Sincerely,

ALAMI LAW GROUP



David Alami

cc: Shaheen Etemadi