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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

MARTIN J. WALSH,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

ATLAS FREIGHT FORWARDING, INC.,
COORDINADORA DE SERVICIOS
ADUANALES ATLAS, S.C., and
MANUEL IGNACIO GARCIA RIOS,
individually and as managing agent,

Defendants.

Case No. 3:22-cv-00216-AJB-AGS

CONSENT JUDGMENT

Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor, and Defendants Atlas Freight Forwarding, Inc. (“Atlas”), Coordinadora de Servicios Aduanales Atlas, S.C. (“CSAA”), and Atlas managing agent Manuel Ignacio Garcia Rios (collectively the “Parties”), have agreed to resolve the matters in controversy in this civil action and agree to the entry of this Consent Judgment and Injunction (“Consent Judgment”) as provided below.

STATEMENTS BY AND AGREEMENTS BETWEEN THE PARTIES

A. The Secretary filed a Complaint in the above-captioned proceeding

1 naming Defendants and alleging they violated provisions of sections 6, 7, 11(c),
2 15(a)(1), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as
3 amended (“FLSA”), 29 U.S.C. §§ 206, 207, 211(c), 215(a)(1), 215(a)(2) and
4 15(a)(5).

5 B. Defendants have retained defense counsel and acknowledge receipt of
6 a copy of the Secretary’s Complaint in this action.

7 C. Defendants waive issuance and service of process of the Summons
8 and Complaint and waive their response to the Secretary’s Complaint.

9 D. The Secretary conducted an investigation of Defendants pursuant to
10 the FLSA covering the period of March 15, 2018, through March 14, 2021. The
11 parties have agreed to settle and resolve all alleged FLSA violations attributable to
12 Defendants through this Consent Judgment.

13 E. The Parties agree to waive findings of fact and conclusions of law and
14 agree to the entry of this Consent Judgment without further contest.

15 F. For purposes of this consent judgment only, Defendants admit that the
16 Court has jurisdiction over the Defendants and the subject matter of this civil
17 action and that venue lies in the Southern District of California.

18 G. Defendants acknowledge that Defendants and any individual or entity
19 acting on their behalf or at their direction will be provided with notice of the
20 provisions of this Consent Judgment within 30 days of entry. Defendants represent
21 that they and all individuals and entities acting on their behalf or at their direction
22 and any individual, entity, or corporation with ownership or managerial authority
23 over Defendants have notice of, and understand, the provisions of this Consent
24 Judgment.

25 H. Defendants admit that the employees, identified on Exhibit A, which
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1 the Parties have agreed to file under seal,¹ inspected and handle goods at their
2 warehouse located at 2306 Avenida Costa Este, San Diego, CA 92154. These
3 goods have been moved in commerce and are offered for transportation and
4 shipment.

5 **JUDGMENT AND PERMANENT INJUNCTION**

6 Pursuant to the statements and agreements above, upon joint motion of the
7 attorneys for the Parties, and for cause shown,

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,
9 pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, Defendants, their officers,
10 agents, servants, employees, successor companies, parties in interest, and all
11 persons and entities acting at its direction or in concert or participation with it, are
12 permanently enjoined and restrained from violating the FLSA, including through
13 any of the following manners:

14 1. Defendants shall not, contrary to FLSA § 6, 29 U.S.C. § 206, pay any
15 of their employees who in any workweek are engaged in commerce or in the
16 production of goods for commerce or who are employed in an enterprise engaged
17 in commerce within the meaning of the FLSA § 3(s), wages at a rate less than the
18 operative minimum wage, which cannot be less than \$7.25 per hour (or at a rate
19 less than such other applicable minimum rate as may hereafter be established by
20 amendment to the FLSA).

21 2. Defendants shall not, contrary to FLSA § 7, 29 U.S.C. § 207, employ
22 any employee who in any workweek is engaged in commerce, within the meaning
23 of the FLSA, or is employed in an enterprise engaged in commerce or in the
24 production of goods for commerce, within the meaning of FLSA § 3(s), for any
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26 ¹ The Parties agree that Defendants may file redacted copies of Exhibit A not under
27 seal if an employee contests whether they are due back wages covered by this
28 Consent Judgment. The redacted Exhibit A must redact all employee names and
payment information except for the employee contesting the back wages owed.

1 workweek longer than 40 hours unless such employee receives compensation for
2 his or her employment in excess of 40 hours in such workweek at a rate not less
3 than one and one-half times the regular rate at which he or she is employed.

4 3. Defendants shall not, contrary to FLSA § 15(a)(1), 29 U.S.C.
5 § 215(a)(1), transport, offer for transportation, ship, deliver, or sell in commerce
6 (or ship, deliver, or sell with knowledge or reason to believe that shipment,
7 delivery, or sale in commerce is intended) goods in the production of which any
8 employee (of the Defendants or other(s)) has been employed in violation of the
9 FLSA’s minimum wage (29 U.S.C. § 206) or overtime pay provisions (29 U.S.C.
10 § 207).

11 4. Defendants shall not fail to make, keep, make available to authorized
12 agents of the Secretary for inspection, transcription, and/or copying, upon their
13 demand for such access, and preserve records of employees and of the wages,
14 hours, and other conditions and practices of employment maintained, as prescribed
15 by regulations issued, and from time to time amended, pursuant to FLSA §§ 11(c)
16 and 15(a)(5), 29 U.S.C. §§ 211(c) and 215(a)(5) and the implementing regulations
17 found in Title 29, Code of Federal Regulations, Part 516.

18 5. Defendants, jointly and severally, shall not continue to withhold the
19 payment of \$17,169.74 in minimum wage pay hereby found to be due by the
20 Defendants under the FLSA to employees, as a result of their employment by
21 Defendants during the period of March 15, 2018, through March 14, 2021 (“Back
22 Wage Accrual Period”).

23 6. Defendants, jointly and severally, shall not continue to withhold the
24 payment of \$94,415.25 in overtime pay hereby found to be due by the Defendants
25 under the FLSA to employees, as a result of their employment by Defendants
26 during the Back Wage Accrual Period.

27 7. Defendants, jointly and severally, will further pay the Department of
28 Labor an additional sum of \$10,790 in civil monetary penalties.

1 8. The total amount Defendants owe in unpaid minimum wages, unpaid
2 overtime, and civil money penalties under this Consent Judgement is \$122,374.99.
3 Defendants shall pay \$122,374.99 in one payment due within 45 days of the Court
4 approving this Consent Judgment. Defendants may make the payments required
5 by this Consent Judgment (back wages plus interest as applicable) online by ACH
6 transfer, credit card, debit card, or digital wallet by going to
7 <https://www.pay.gov/public/form/start/77761888>, or by going to
8 www.pay.gov and searching “WHD Back Wage Payment - WE Region”.
9 Payments shall reference BW Case Number # 1934989.

10 9. Defendants will cooperate with and provide assistance, including
11 employee contact information, to the Department of Labor to further distribution of
12 the wages and location of employees.

13 10. The Secretary shall allocate and distribute the funds described in
14 paragraphs 5 and 6 less deductions for employees’ share of social security and
15 withholding taxes on the back wage amounts to the persons named in the attached
16 Exhibit A, or to their estates if that be necessary, in his sole discretion, and any
17 money not so paid within a period of three years from the date of its receipt,
18 because of an inability to locate the proper persons or because of their refusal to
19 accept it, shall be then deposited in the Treasury of the United States, as
20 miscellaneous receipts, pursuant to 29 U.S.C. § 216(c).

21 11. In the event of any default in the timely making of any payment due
22 hereunder, the full amount due under the back wage provisions of this Judgment
23 which then remains unpaid, plus post-judgment interest at the rate of 10% per year,
24 from the date of this Judgment until paid in full, shall become due and payable
25 upon the Secretary’s sending by ordinary mail a written demand to the last
26 business address of Defendants then known to the Secretary.

27 12. Defendants, their officers, agents, servants, and employees and those
28 persons in active concert or participation with Defendants, shall not in any way

1 directly or indirectly, demand, require or accept any of the back wages from the
2 individuals listed on Exhibit A. Defendants shall not threaten or imply that adverse
3 action will be taken against any employee because of their receipt of funds to be
4 paid under this Judgment. Violation of this Paragraph may subject Defendants to
5 equitable and legal damages, including punitive damages and civil contempt.

6 13. Defendants, their officers, agents, servants, and employees and those
7 persons in active concert or participation with Defendants, shall not in any way
8 retaliate or take any adverse employment action, or threaten or imply that adverse
9 action will be taken against any employee who exercises or asserts their rights
10 under the FLSA or provides information to any public agency investigating
11 compliance with the FLSA. Violation of this Paragraph may subject Defendants to
12 equitable and legal damages, including punitive damages and civil contempt.

13 14. Defendants shall comply with the FLSA, and if not already in effect at
14 the time of entry of this judgment, shall amend and maintain their payroll practices
15 for employees performing work in the United States as follows:

16 a. Defendants shall accurately record the information required by 29
17 C.F.R. § 516.2 in the payroll records, including, for each employee (1)
18 the rate(s) of pay for each of the hours worked during a workweek; (2)
19 the start, stop, and total hours employees work each workweek; (3)
20 the total weekly straight-time earnings due for the hours worked
21 during the workweek; and (4) the total premium pay for overtime
22 hours.

23 b. Defendants shall record all wages paid to employees, regardless of the
24 manner of payment, including but not limited to the currency in which
25 the payment was made, on its payroll records. When Defendants
26 record the manner of payment, Defendants will specify the currency
27 in which the payment was made.
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1 c. Defendants shall maintain a physical copy of all payroll records and
2 time records for all employees at their headquarters or at a location
3 within the United States.

4 d. Defendants shall not alter or manipulate time or payroll records to
5 reduce the number of hours actually worked by an employee, and
6 Defendants shall not encourage workers to under-report their hours
7 worked.

8 e. Defendants shall not direct supervisors, employees, or payroll
9 preparers to falsify time or payroll records in any manner including
10 reducing the number of hours worked by employees, and Defendants
11 shall direct supervisors and payroll providers to encourage workers to
12 report all hours worked.

13 15. Within 30 days of the entry of this Judgment, Defendants shall supply
14 all of their employees with copies of the attached **Exhibit B**, which summarizes
15 terms of this Consent Judgment and the employees' rights under the FLSA, in
16 English and Spanish. In addition, Defendants shall provide copies of **Exhibit B** to
17 all new hires and post a copy at their location(s) in an area that is frequented by
18 employees and where it is visible. This provision shall be in effect for a period of
19 three years from the date entry of this Judgment by the Court.

20 16. On at least an annual basis, Defendants shall hire an independent
21 third-party to conduct supervisor training as to the requirements of the FLSA. The
22 training shall be for one session of not less than one hour with an opportunity for
23 questions and answers and shall address the FLSA's minimum wage, overtime,
24 record keeping, and anti-retaliation requirements, and the FLSA's requirements for
25 classifying workers properly. All supervisors and employees who determine
26 Defendants' employees' pay or schedules or who prepare payroll shall attend this
27 training. Defendants shall maintain documentation of these trainings for a period of
28 four years and shall provide it to representatives of the Secretary of Labor upon

1 request. This provision shall be in effect for a period of three years from the date
2 entry of this Judgment by the Court.

3 17. Within 60 days of the date that Defendants sign this Consent
4 Judgment, Defendants shall hire an independent third-party to conduct non-
5 supervisory employee training as to the requirements of the FLSA in their native
6 language to employees working in the United States. The training shall be
7 compensable time for which employees shall receive pay and shall not exceed one
8 hour. The independent third-party training shall include, but is not limited to:
9 minimum wage, overtime, recordkeeping provisions of the FLSA, and the FLSA's
10 requirements regarding the definition of "employees." This training shall be
11 repeated two additional times, one to occur no earlier than twelve months after the
12 initial training and no later than twenty-four months after the initial training, and
13 another to occur no earlier than twelve months after the second training and no
14 later than twenty-four months after the second training.

15 18. Defendants will allow the Department of Labor's Wage and Hour
16 Division to inspect any payroll records for employees working in the United States
17 and video surveillance for any locations in the United States upon request.

18 19. Defendants will provide the Department of Labor's Wage and Hour
19 Division with time to speak to Defendants' employees to confirm that Defendants
20 are complying with the FLSA and with this Consent Judgment and to answer any
21 questions Defendants' employees may have about their rights under the FLSA.
22 This time shall be compensable time for which employees shall receive pay.

23 20. Defendants agree to provide one representative to participate in one
24 public event promoting compliance with the FLSA at Wage and Hour Division's
25 request per year over the next two years, for a total of two public events.
26 Defendants will collectively only provide one representative per event and may
27 provide a different representative for each event. The representative will be
28 knowledgeable about the pay and recordkeeping practice changes that Defendants

1 made to comply with the FLSA and with this Consent Judgment. Each public event
2 will last no more than 4 hours. The representative may elect to attend virtually or
3 to travel within San Diego or Imperial County to attend the event.

4 **FURTHER,**


5 ORDERED that the filing, pursuit, and/or resolution of this proceeding with
6 the entry of this Judgment shall not act as or be asserted as a bar to any action under
7 FLSA § 16(b), 29 U.S.C. § 216(b), as to any employee not named on the attached
8 Exhibit A nor as to any employee named on the attached Exhibit A for any period
9 not specified therein; and, it is further

10 ORDERED that each party shall bear its own fees and other expenses incurred
11 by such party in connection with any stage of this proceeding, including but not
12 limited to attorneys' fees, which may be available under the Equal Access to Justice
13 Act, as amended; and, it is further

14 ORDERED that this Court shall retain jurisdiction of this action for purposes
15 of enforcing compliance with the terms of this Consent Judgment.

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18 IT IS SO ORDERED

19 Dated: February 23, 2022

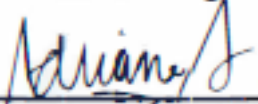
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21 Hon. Anthony J. Battaglia
22 United States District Judge
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For the Plaintiff:

MARC PILOTIN
Regional Solicitor

BORIS ORLOV
Counsel for Wage and Hour Litigation



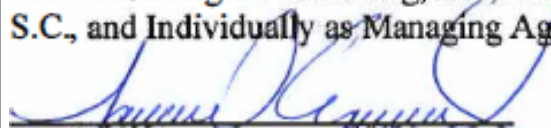
ADRIANA E. AHUMADA
Trial Attorney

Dated: February 3, 2022

1 For Defendants:

2 The Defendants hereby appear and consent to the entry of this Judgment and waive
3 notice by the Clerk of Court.

4
5 For Atlas Freight Forwarding, Inc., Coordinadora de Servicios Aduanales Atlas,
6 S.C., and Individually as Managing Agent

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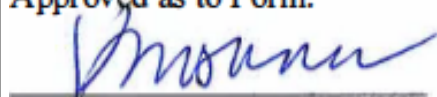
8 MANUEL GARCIA RIOS

9 Managing Agent of Atlas Freight Forwarding, Inc., &

Managing Agent of Coordinadora de Servicios Aduanales Atlas S.C.

10 Dated: January 31, 2022

11 Approved as to Form:

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13 ELIZABETH DUNN

14 Attorney for Defendants

EXHIBIT A
(Filed Under Seal)

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EXHIBIT B

SUS DERECHOS BAJO LA FLSA

El Departamento de Trabajo y su empleador han llegado a un acuerdo para resolver una investigación bajo la Ley de Normas Razonables de Trabajo (FLSA en inglés) del Departamento de Trabajo sobre las prácticas de pago de su empleador. Según la FLSA:

- Si usted trabaja 40 horas o menos en una semana, su empleador le debe el salario mínimo federal (\$7.25 por hora) por todas las horas que usted trabajo.
 - Por ejemplo, si usted trabajara 40 horas durante una semana por \$5 cada hora, o menos del salario mínimo federal, su empleador le debería más dinero.
 - Usted puede calcular lo que su empleador le debe si multiplica las horas que trabajo por la diferencia entre el salario mínimo federal y el salario por hora que le pagaron.
 - En este ejemplo, la diferencia entre el salario mínimo federal (\$7.25) y su salario horario (\$5.00) es \$2.25. Multiplicaría \$2.25 por 40 horas para determinar que su empleador le debe \$90.00.
- Si usted trabaja más de cuarenta horas en una semana, su empleador le debe el más alto de su salario horario o el salario mínimo de California (que es aún más alto que el salario mínimo federal) por todas las horas que usted trabaja. Su empleador también le debe pago adicional de sobretiempo por todas las horas que trabaja más de 40.
 - El pago de sobretiempo es adicional a su salario horario y debe ser el 50 por ciento de su salario horario, que tiene que ser al menos el equivalente al salario mínimo de California.
 - El salario mínimo estatal del estado de California es \$13.00 por hora para empleados que trabajan para empleadores con 25 o menos empleados y \$14.00 por hora para para empleados que trabajan para empleadores con 26 o más empleados.
 - Por ejemplo, si usted trabaja por un empleador en California con menos de 26 empleados, su salario horario es \$13.00, y usted trabaja 50 horas en una semana, se le debería:
 - Su pago normal por hora (que también se llama “straight time” en inglés sería 50 horas x \$13.00 = \$650.00.
 - Más tiene que agregar el pago de sobretiempo por todas las horas que trabajo más de 40 horas. En este ejemplo, usted trabajo 10 horas más de cuarenta horas. Su salario horario es \$13.00, que es

más alto que salario mínimo federal y equivalente que el salario mínimo de California. El pago de sobretiempo por cada hora adicional de cuarenta sería el 50 por ciento de \$13.00, o \$6.50. Como usted trabajo 10 horas más de cuarenta, el pago de sobre tiempo esta semana sería $10 \text{ horas} \times \$6.50 = \$65.00$.

- Su pago total para la semana sería $\$650.00 + \$65.00 = \$715.00$.

- Por ejemplo, si usted trabaja por un empleador en California con menos de 26 empleados, su salario horario es \$5.00, y usted trabaja 50 horas en una semana, se le debería:

- Su pago normal por hora (que también se llama “straight time” en ingles sería $50 \text{ horas} \times \$5.00 = \$250.00$.

- También su empleador le debe la diferencia entre su salario horario de \$5.00 y el salario mínimo de California de \$13.00, o $50 \text{ horas} \times \$8.00 = \$400.00$.

- Más tiene que agregar el pago de sobretiempo por todas las horas que trabajo más de 40 horas. En este ejemplo, usted trabajo 10 horas más de cuarenta horas. Su salario horario es \$13.00, que es más alto que salario mínimo federal y equivalente que el salario mínimo de California. El pago de sobretiempo por cada hora adicional de cuarenta sería el 50 por ciento de \$13.00, o \$6.50. Como usted trabajo 10 horas más de cuarenta, el pago de sobre tiempo esta semana sería $10 \text{ horas} \times \$6.50 = \$65.00$.

- Su pago total para la semana sería $\$250.00 + \$400.00 + \$65.00 = \715.00 .

- Su empleador debe documentar y reportar correctamente cada hora que trabaja y todos los pagos que recibe.
- Su empleador no puede amenazarlo ni tomar medidas en su contra por hablar con un representante del DOL, participar en un caso legal del DOL o ejercer sus derechos ante la FLSA.
- **Es ilegal que alguien le haga daño porque habló con un representante del DOL, participó en un caso legal del DOL o habló sobre sus derechos ante la FLSA. Es ilegal que su empleador tome las siguientes medidas porque ejerció sus derechos de FLSA:**
 - Despedirlo a usted o a cualquier amigo o familiar que trabaje con usted;
 - Negarse a pagarle por todas las horas que trabaja;
 - Negarse a emplear a un familiar suyo;

- Reportarle al gobierno para su deportación;
- Reducir sus horas de trabajo o la cantidad que gana;
- Amenazarlo con problemas legales o usar a su abogado para hacerle daño;
- Hacer cualquier otra amenaza o tomar cualquier acción dañina contra usted.

- También es ilegal que alguien le obligue a firmar un documento con información falsa sobre las horas que trabaja, el pago que recibe, o cualquier otra cosa relacionada con sus derechos a la FLSA.
- Usted tiene el derecho legal de decir la verdad sobre sus condiciones de trabajo sin que nadie lo amenace o lo cause daño.
- Estas leyes se aplican a usted sin importancia de su estatus migratorio.

Si ocurre alguna de estas acciones, comuníquese inmediatamente con el DOL al (619) 557-5110.

EXHIBIT B

YOUR RIGHTS UNDER THE FLSA

The U.S. Department of Labor (“DOL”) and your employer have reached an agreement to resolve the Department’s investigation under Fair Labor Standards Act (FLSA) into your employer’s pay practices. Under the FLSA:

- If you work 40 hours a week or less, your employer must pay you the federal minimum wage, which is \$7.25 per hour, for all hours worked.
 - For example, if you worked 40 hours at an hourly rate of \$5.00, or less than the federal minimum wage, your employer would owe you more money.
 - You can calculate what your employer would owe you by multiplying the hours that you worked by the difference between the federal minimum wage and the hourly rate that you were paid.
 - In this example, the difference between the minimum wage (\$7.25) and your hourly rate (\$5.00) is \$2.25. You would multiply \$2.25 by 40 hours to determine that your employer owes you \$90.00.
- If you work more than 40 hours per week, your employer owes you your hourly rate or the California state minimum wage (which is higher than the federal minimum wage), whichever is higher, for all hours that you work. Your employer also owes you additional overtime pay for all hours that you worked over 40 hours.
 - Overtime pay is in addition to your normal hourly pay and must be 50 percent of your normal hourly pay or the California state minimum wage, whichever is higher, for each hour that you work.
 - California minimum wage is presently \$13.00 for employees who work for employers with 25 or fewer employees and \$14.00 for employees who work for employers with 26 or more employees.
 - OVERTIME EXAMPLE #: if you worked for an employer in California with less than 26 employees, your hourly rate was \$13.00 an hour, and you worked 50 hours in a week, you would be owed:
 - Your normal pay for each hour (also known as “straight time”), 50 hours x \$13.00 = \$650.00.
 - You also would be owed overtime pay for all hours over 40 that you worked. In this example, you worked 10 hours more than 40 hours. Your hourly rate \$13.00, which is higher than the federal

1 minimum wage and equivalent to the state minimum wage. The
 2 overtime pay for each hour would be \$13.00 multiplied by 50
 3 percent, which equals \$6.50. Therefore, your overtime premium
 for that week would 10 hours x \$6.50 = \$65.00

4 ○ Your total weekly pay would therefore be \$650.00 + \$65.00 = \$715.00.

5 ○ For example, if you worked for an employer in California with less than
 6 26 employees, your hourly rate was \$5.00 an hour, and you worked 50
 hours in a week, you would be owed:

7 ■ Your normal pay for each hour, 50 hours x \$5.00 = \$250.00.

8 ■ You also would be owed difference between your pay of \$5.00
 9 an hour and California minimum wage of \$13.00 per hour, 50
 hours x \$8.00 = \$400.00

10 ■ In addition, you would be owed overtime pay for all hours over
 11 40 that you worked. In this example, you worked 10 hours more
 12 than 40 hours. The overtime pay for each hour would be \$13.00
 multiplied by 50 percent, which equals \$6.50. Therefore, your
 13 overtime premium for that week would 10 hours x \$6.50 =
 \$65.00

14 ○ Your total weekly pay would therefore be \$250.00 + \$400.00+\$65.00
 15 = \$715.00.

16 • Your employer must correctly document and report each hour you work and all
 pay you receive.

17 • Your employer cannot threaten you or take action against you for speaking to a
 18 DOL representative, participating in a DOL legal case, or exercising your FLSA
 rights.

19 • **It is illegal for anyone to harm you because you talked to a DOL**
 20 **representative, participated in a DOL legal case, or spoke up about your**
 21 **FLSA rights. It is illegal for your employer to take the following actions**
 because you exercised your FLSA rights:

22 ○ Fire you or any friends or relatives that work with you;

23 ○ Refuse to pay you for all hours you work;

24 ○ Refuse to hire a relative of yours;

25 ○ Report you to the government for deportation;

26 ○ Reduce your work hours or the amount you earn;

27 ○ Threaten you with legal problems or threaten to use their lawyer to harm
 28 you;

1 ○ Make any other threat or take any harmful action against you.

- 2 • It is also illegal for anyone to force you to sign a document with false information
3 about the hours you work, pay you receive, or anything else related to your FLSA
4 rights.
5 • You have the legal right to tell the truth about your working conditions without
6 anyone threatening or causing you harm.
7 • These laws apply to you regardless of your immigration status.

8 **If any of these actions occur, please immediately contact the DOL at (619)**
9 **557-5110.**

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