

PROTECTING EMPLOYEE & CONSUMER RIGHTS



ATTY. CONRADO JOE SAYAS

Employees should not be discouraged from filing legitimate wage claims

the right to recover damages and attorneys' fees or to seek injunction against the employer's retaliation.

Class actions
Potential class members still employed by employer might be unwilling to sue individually or join a suit for fear of retaliation. A class action shields the individual employee from the personalized confrontation inherent in individual litigation. Since a class action usually involves a large number of employees from dozens to thousands, the confrontational effect on each class member employee is significantly reduced and the fear of retaliation substantially lessened.

Class actions also give employees an inexpensive way to resolve their wage claims, by providing a procedure where the claims of many individuals can be resolved at the same time and providing small claimants with a method of obtaining redress for claims which would otherwise be too small to warrant individual lawsuits.

Private Attorney General Act (PAGA)

California law allows aggrieved employees to pursue not only his or her claim but the claims of fellow employees who are not named parties to the lawsuit. Thus, the suing employee acts as a private attorney general who can obtain relief from the court for the benefit of other employees. The PAGA allows several small claims to be adjudicated together. For example, an individual employee's claim for overtime pay with a value of \$50 per month, standing alone, has very little economic value to pursue in a lawsuit. But if the claims of 200 other employees who have similar claims are joined in one action, it becomes substantial enough to make a lawsuit economically viable.

Availability of lawyers for meritorious claims

If employment claims are meritorious, one should not hesitate to inquire from an experienced

attorney. There are attorneys who will represent employees on a contingency fee arrangement (also known as a "no recovery, no fee" system). If the attorney agrees to handle the case, the payment of legal fees only occurs at the time recovery of wages is obtained from the employer.

There is no reason why an employee should suffer silently the slings and arrows of employer violations. An experienced attorney will be able to discuss reasonable options available to an aggrieved employee to seek redress and enforce the employee's rights.

C. Joe Sayas, Jr., Esq. is an experienced trial attorney who has successfully obtained significant results, including several million dollar recoveries for consumers against insurance companies and big business. He is a member of the Million Dollar Advocates Forum—a prestigious group of trial lawyers whose membership is limited to those who have demonstrated exceptional skill, experience and excellence in advocacy. He has been featured in the cover of Los Angeles Daily Journal's Verdicts and Settlements for his professional accomplishments and recipient of numerous awards from community and media organizations. His litigation practice concentrates in the following areas: serious personal injuries, wrongful death, insurance claims, unfair business practices, wage and hour (overtime) litigation. You can visit his website at www.joesayaslaw.com or contact his office by telephone at (818) 291-0088.
(Advertising Supplement)

BARRISTER'S CORNER



ATTY. KENNETH URSUA REYES

IMMIGRANTS sometimes find themselves in immigration removal proceedings (deportation) because they have obtained their green cards through fraud and or misrepresentation. A common example would be married children of US citizens who lie to the US Embassy about their marital status by stating that they are single in order to obtain permanent residency. Another common example would be a married person who misrepresents her status as single to the US Embassy or USCIS in order to obtain a green through a petition from a new US Citizen spouse.

These immigrants could have their green cards revoked and later on placed in removal proceeding by the USCIS should the government find out about the fraud or misrepresentation. The USCIS (formerly INS) usually discovers the fraud when the immigrant tries to petition another relative or when the immigrant tries to apply for US Citizenship.

However, there are certain relief available in immigration court for such immigrants who are the immediate relatives of either a US Citizen or Perma-

Fraud waiver under INA section 237(A)(1)(H)

nent Resident. This is the fraud waiver under INA §237(a)(1)(H). The waiver of removal provision under INA §237(a)(1)(H), 8 USC 1227(a)(1)(H), specifically states:

(H) Waiver authorized for certain misrepresentations. The provisions of this paragraph relating to the removal of aliens within the United States on the ground that they were inadmissible at the time of admission as aliens described in section 212(a)(6)(C)(i) [8 USC §1182(a)(6)(C)(i)], whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (4)(D)) who –

(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such admission except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 212(a) [8 USC §1182(a)(5)(A), (7)(A)] which were a direct result of that fraud or misrepresentation.

A waiver of removal for fraud or misrepresentation granted under this subparagraph shall also

operate to waive removal based on the grounds of inadmissibility directly resulting from such fraud or misrepresentation.

Statutory eligibility for the §237(a)(1)(H) waiver is established by an alien who having entered the United States by fraud or misrepresentation, whether willful or innocent, after having obtained an immigrant visa or equivalent document, and is the spouse, parent, son or daughter of a United States citizen or lawful resident alien.

Once statutory eligibility is established, the waiver is granted in the exercise of the Attorney General's discretion. For an alien in removal proceedings the determinations of statutory eligibility and favorable exercise of discretion are made by an immigration judge. 8 C.F.R. §240.11(d). furthermore, unlike most other immigration petitions and applications, as well as most other forms of relief from removal or deportation, there is no formal application or fee required in order to request the §237(a)(1)(H) waiver.

It is well established that the §237(a)(1)(H) waiver is available to cure removability and deportability for an alien whose permanent residence was obtained by misrepresenting his/her marital status, despite the fact that s/he would not have qualified for the immigrant status accorded

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EB-3 Retrogression got you down? Why not try for an H-1B

PROBLEM SOLVED



ATTY. PIA DYQUIANCO

Act as one that requires the "theoretical and practical application of a body of highly specialized knowledge" and "attainment of a bachelor's, or higher, degree in the specific specialty or its equivalent." These requirements pose a problem in most nurse cases, as the minimum requirement to be licensed as an RN is generally a two-year degree in nursing, rather than a four-year bachelor's degree.

Thus, many RNs, therefore, would not qualify for the H1B classification. However, a petitioning employer may show that a particular Registered Nurse position could qualify for an H1-B by demonstrating that a bachelor's degree or higher (or its equivalent) is the normal minimum requirement for entry into that particular position; the degree requirement is common to the industry in parallel nursing positions; the employer normally requires a degree or its equivalent for the position; or the nature of the position's duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's degree, or higher (or its equivalent).

There are three types of RN positions that would qualify for an H-1B: (1) nurses who generally will be approved is the certified advanced practice registered nurse; (2) those in administrative positions requiring graduate degrees in fields such as nursing or health administration; or (3) specialized category such as those who have a nursing specialty such as critical care and peri-operative nurses, or who have passed examinations based on clinical experience in school health, occupational health, rehabilitation nursing, emergency room nursing, critical care, operating room, oncology, and pediatrics.

Although H-1Bs are available in this manner, it is still recommended that you or your employer seek the advice of a competent immigration attorney who has handled H-1B cases. The H-1B visas are available, but they are not easy to obtain. USCIS requires that an H-1B application accompany a certified Labor Condition Application from the Department of Labor. Recently, the DOL has instituted the new iCert System to obtain these

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**To: Restaurant/Health Workers
All Underpaid Workers**

From: Bander Law Firm, LLP

**Re: Get the Thousands of \$\$\$\$ You Deserve
For Your Hardwork**

**California Law Entitles You to Overtime/
Minimum Wages/Interest/\$\$\$Penalties**

**Immigration Status
DOES NOT MATTER.**

**FREE CONSULTATION ON WAGES/HR CLAIMS
IMMIGRATION, PERSONAL INJURY**

----NO RECOVERY, NO FEE----

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