

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,)	
)	
Complainant,)	Docket No. 08-1104
)	
v.)	
)	
IMPERIAL SUGAR COMPANY;)	
IMPERIAL-SAVANNAH, L.P.)	
)	
)	
Respondents.)	
<hr style="border: 0.5px solid black;"/>		

RESPONDENTS’ MOTION TO DISMISS CITATION 2, ITEMS 4 THROUGH 15

Pursuant to 29 C.F.R. § 2200.2(b), Federal Rules of Civil Procedure 12(b)(6) and 12(c), 29 U.S.C. § 658(a), 29 C.F.R. § 1903.14(b) and other applicable law, Respondents Imperial Sugar Company and Imperial-Savannah, L.P. (collectively “Imperial”) respectfully move to dismiss Citation 2, Items 4 through 15 on the grounds that the allegations contained in Citation 2, Items 4 through 15 fail to state a claim a claim upon which relief can be granted because they do not provide the Respondents fair notice of the nature of the alleged violations and do not describe with particularity the nature of the alleged violations. Judgment on the pleadings is therefore appropriate on these Items and should be entered in Imperial’s favor.

Pursuant to 29 C.F.R. § 2200.40(a), counsel for Respondents attempted to confer with Complainant’s counsel regarding this Motion. As of the time of this filing, Complainant’s counsel has not responded to Respondents’ counsel’s January 26, 2009 message regarding conferral, and Respondent thus presumes that Complainant opposes this Motion.

Respectfully submitted, this 27th day of January, 2009.

/s/ Charles H. Morgan
Charles H. Morgan
charlie.morgan@alston.com
Matthew J. Gilligan
matt.gilligan@alston.com
Ashley D. Brightwell
ashley.brightwell@alston.com
Jeremy D. Tucker
jeremy.tucker@alston.com
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
(404) 881-7000
FAX: (404) 253-8757

Attorneys for Respondents

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,)
)
Complainant)
)
v.) Docket No. 08-1104
)
IMPERIAL SUGAR COMPANY;)
IMPERIAL-SAVANNAH, L.P.)
)
Respondents.)
_____)

CERTIFICATE OF SERVICE

I certify that all parties have consented that all papers required to be served in this action may be served and filed electronically. I further certify that a copy of RESPONDENTS' MOTION TO DISMISS CITATION 2, ITEMS 4 THROUGH 15 and MEMORANDUM IN SUPPORT was electronically served on January 27, 2009 on the following counsel for Complainant:

Karen E. Mock
Mock.Karen@dol.gov
Angela F. Donaldson
Donaldson.Angela@dol.gov
Office of the Solicitor
U.S. Department of Labor
61 Forsyth Street S.W.
Room 7T10
Atlanta, Georgia 30303

/s/ Charles H. Morgan
Charles H. Morgan
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
charlie.morgan@alston.com