

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

JENNIFER HALL, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

PAUL WHITE and PHYLLIS THOMAS

Defendants.

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Case No. 15-04114-MB

I. NATURE OF ACTION

1. This is a class action brought on behalf of all hourly-paid workers, legally authorized to be employed in the United States, who have been employed by Gold Kist, Inc. ("Gold Kist") and/or Pilgrim's Pride Corp. ("Pilgrim's Pride") at each of these company's facilities nationwide.

2. Ms. Hall contends that Defendants Paul White ("White"), Operations Manager at the former Gold Kist and current Pilgrim's Pride Russellville Facility (hereafter "Russellville Facility")¹, and Phyllis Thomas, Complex Manager at the Russellville Facility ("Thomas" and "Defendants" collectively), are part of a nationwide conspiracy with other current and former Gold Kist and Pilgrim's Pride facility human resources personnel, who have depressed the wages of these workers by knowingly employing large numbers of illegal immigrants, likely more than

¹ In January 2007, Pilgrim's Pride Corp. completed its acquisition of Gold Kist, Inc., including the Facility in Russellville, Alabama, the Facility at issue in this case. As stated above, "the Facility" refers to chicken processing facility in Russellville, Alabama that was originally owned by Gold Kist, but is now owned by Pilgrim's Pride. Additionally, the allegations in this Complaint that refer to Gold Kist relate to the time period until January 2007, and the allegations in this Complaint that refer to Pilgrim's Pride relate to the time period after January 2007.

500 in the last four years alone, thereby depressing the market price for unskilled labor. (This is referred to as “the Illegal Immigrant Hiring Scheme” or “the Scheme”.)

3. The Illegal Immigrant Hiring Scheme violates the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 *et seq.* It is perpetrated every day, as an integral part of each facility’s regular manner of staffing its plant, nationwide, and will continue unabated, victimizing every legal worker, until halted by judicial intervention.

II. PARTIES, JURISDICTION & VENUE

4. Plaintiff Jennifer Hall is a citizen of Alabama. She was legally authorized to be employed in the U.S., and as an employee of Russellville Facility, was paid an hourly wage rate which was depressed as a direct result of the Illegal Immigrant Hiring Scheme.

5. Defendant Paul White is a citizen of Alabama. He has conspired to operate the Russellville Facility through a pattern of racketeering activity, the Illegal Immigrant Hiring Scheme.

6. Defendant Phyllis Thomas is a citizen of Alabama. She has conspired to operate the Russellville Facility through a pattern of racketeering activity, the Illegal Immigrant Hiring Scheme.

7. This Court has subject matter jurisdiction of this case as a federal question, pursuant to 28 U.S.C. § 1331 and 18 U.S.C. § 1964(c).

8. Venue is proper in this District because the illegal acts giving rise to this case occurred in this district and Ms. Hall resides here.

III. CLASS ALLEGATIONS

9. This action is brought and may be maintained as a class action pursuant to FED. R. CIV. P. 23(b)(3). Ms. Hall brings this action on behalf of herself and all other persons legally

authorized to be employed in the U.S. who have been employed at all Gold Kist and Pilgrim's Pride Facilities nationwide, as hourly wage earners in the last four years (hereafter the "Class" or "Class members").

10. The Class is so numerous that joinder of all Class members is impracticable. The actual number can be ascertained through discovery of Gold Kist's and Pilgrim's Pride's records, but is in the thousands.

11. Among the questions of fact and law that are common to the Class are:

a. Whether Defendants have been and are currently engaged in the Illegal Immigrant Hiring Scheme in order to depress wages of the Class;

b. To what extent the Illegal Immigrant Hiring Scheme has caused Class members' wages to be depressed; and

c. Whether the Illegal Immigrant Hiring Scheme violates the Immigration and Nationality Act and RICO.

12. Ms. Hall's claim is typical of those of the members of the Class inasmuch as her damages were directly and proximately caused by the Illegal Immigrant Hiring Scheme. Ms. Hall seeks no relief that is antagonistic or adverse to other Class members.

13. Ms. Hall is committed to the vigorous prosecution of this action and has retained counsel who are competent in the prosecution of RICO cases generally, and this legal theory in particular. Accordingly, she and her counsel will fairly and adequately protect and represent the interests of the Class.

14. Questions of law or fact that are common to the members of the Class are substantially similar and predominate over any questions affecting only individual Class

members, and a class action is the only appropriate method for the fair and efficient adjudication of this controversy for the following reasons, among others:

- a. The individual amounts of damages involved, while not insubstantial, are generally not large enough to justify individual actions;
- b. The costs of individual actions would unreasonably consume the amounts that would be recovered;
- c. Individual actions would unduly burden the judicial system; and
- d. Individual actions brought by Class members would create a risk of inconsistent results and would be unnecessarily duplicative of this litigation.

15. Ms. Hall anticipates no difficulty in the management of this action because the evidence proving the Illegal Immigrant Hiring Scheme is ascertainable through discovery, the identities of the members of the Class are known to Defendants, Gold Kist, and Pilgrim's Pride. Damages can be calculated through expert testimony.

IV. THE ILLEGAL IMMIGRANT HIRING SCHEME ENSURES THAT MOST HOURLY WORKERS ARE UNAUTHORIZED FOR EMPLOYMENT AND THAT WAGES ARE DEPRESSED

16. The Illegal Immigrant Hiring Scheme saves Gold Kist and Pilgrim's Pride millions of dollars per year in labor costs. This is so because illegal immigrants will work for extremely low wages and in deplorable working conditions, which has been referred to as a form of modern-day indentured servitude. Such hiring practices are in direct violation of the Immigration and Nationality Act and RICO, which makes the employment of illegal immigrants a predicate offense. Thus, if Gold Kist and Pilgrim's Pride were not hiring large numbers of illegal immigrants at each of their facilities nationwide, these companies would have to pay the Plaintiff Class significantly higher wages.

17. Ms. Hall believes that Defendants have approved the following hiring criteria at the Russellville Facility, which subvert the law against hiring illegal immigrants and effectively turn a blind eye to factors which any reasonable employer would know indicate job applicants are unauthorized for employment in the U.S.: 1) hiring workers who cannot speak English while claiming to be U.S. Citizens or Lawful Permanent Residents; 2) hiring workers who are recent arrivals to the U.S. and claim to be U.S. Citizens or Lawful Permanent Residents; 3) hiring workers who present authorization documents which are invalid on their face because the pictures are of a different person, are upside down, are on poor quality paper, etc.; 4) hiring workers who are personally known to the Facility's hiring staff to be in the U.S. illegally and are using false documents; 5) hiring workers who have previously been employed at the Facility under different identities. A majority of the Facility's hourly workforce falls into one or more of these categories.

18. Additionally, Gold Kist and Pilgrim's Pride are often informed that large numbers of its workers at their Facilities are using false social security numbers by the Social Security Administration. Most of these workers then simply assume new identities and continue to work at the Facility.

19. Plaintiff believes these hiring practices are in place at all the facilities of both companies and are perpetrated by the Defendants' co-conspirators, the other HR Managers and corporate HR executives who set the policies and depressed wage levels for the Class.

A. White Has Personally Approved The Scheme at the Russellville Facility; His Co-Conspirators Implement It There

20. Paul White is Operations Manager of the Russellville Facility. As Operations Manager, he personally has approved the hiring policies identified above. Additionally, he works at the Russellville Facility on a daily basis and observes the largely illiterate, Spanish-

speaking, illegal workforce. He knows most of these people are not U.S. citizens or lawful permanent residents, i.e., they are ineligible for employment. He knows that Gold Kist and Pilgrim's Pride are committing a massive immigration law conspiracy in order to maintain this workforce.

B. Thomas Has Personally Instructed Her Staff On How To Implement The Scheme

21. Phyllis Thomas is the Complex Manager at the Russellville Facility. As Complex Manager, she personally has instructed her staff on how to implement the hiring policies identified above. For example, she has personally instructed her staff to rehire workers at the Russellville Facility even though she had knowledge that these workers were previously hired to work at the Russellville Facility under different identities. She also reprimanded her staff that they were "looking at the papers too closely" when she believed too few illegal immigrants were being hired.

22. Many others are part of the conspiracy to facilitate the Scheme. White and Thomas directed the Russellville Facility's human resources personnel to implement the Scheme by turning a blind eye to the fact that workers who claim to be U.S. citizens or lawful permanent residents cannot speak English and are using false and stolen identity documents. Additionally, White has directed his staff to arrange for free temporary room and board for the illegal immigrant workers at local motels. He has also directed his staff to provide transportation for illegal immigrant workers between their homes and work.

23. Further, Defendants are part of a conspiracy with other former and current Gold Kist and Pilgrim's Pride human resource personnel, at other locations, to implement and carry out the illegal-immigrant hiring scheme at each of Gold Kist and Pilgrim's Pride's facilities nationwide.

C. The Scheme Violates the Immigration and Nationality Act

24. The Immigration and Nationality Act provides, in relevant part:

Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens... shall be fined under Title 18, or imprisoned for not more than 5 years, or both.

8 U.S.C. § 1324(a)(1)(B)(3)(A).

25. White and Thomas have violated this provision of the Act by conspiring to employ more than 10 undocumented, illegal aliens in each of the last four years, with actual knowledge each was brought into the country with some assistance by others during their journey.

26. Additionally, knowingly employing large numbers of illegal immigrants violates 8 U.S.C. § 1324(a)(1)(A)(iii), which makes it a federal crime for anyone who “knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation.” Employing illegal immigrants while also assisting them find housing and transportation constitutes “harboring.”

27. These are provisions of § 274 of the Immigration and Nationality Act, which is a RICO predicate offense. 18 U.S.C. § 1961(1)(F).

D. Gold Kist and Pilgrim’s Pride Are the RICO Enterprises

28. Gold Kist, Inc. is a corporation affecting interstate commerce. It is therefore a RICO enterprise, pursuant to 18 U.S.C. § 1961(4). The Gold Kist enterprise existed from the beginning of the class period until January 2007.

29. Pilgrim's Pride Corp. is a corporation affecting interstate commerce. It is therefore a RICO enterprise, pursuant to 18 U.S.C. § 1961(4). The Pilgrim's Pride Enterprise exists from January 2007 through the present.

E. Defendants Have Violated 18 U.S.C. § 1962(d) and Will Continue To Do So Indefinitely

30. The conspiracy to perpetrate the Scheme is a violation of 18 U.S.C. § 1962(d), an agreement among Defendants and their unnamed co-conspirators at Gold Kist and Pilgrim's Pride to violate § 1962(c), by participating in the affairs of Gold Kist and Pilgrim's Pride, the enterprises, through a pattern of racketeering activity. The Scheme is ongoing, open-ended, and has been perpetrated continuously for the last four years. It will not stop without judicial intervention.

V. HALL IS A DIRECT VICTIM OF THE ILLEGAL IMMIGRANT HIRING SCHEME

31. The Illegal Immigrant Hiring Scheme, by itself, was a substantial factor in causing the depressed wages about which Hall and the Class complain. No other party has been damaged by the Scheme.

32. Defendants are subject to joint and several liability for all of the damage caused by all the racketeering acts committed by any of their co-conspirators.

VI. PRAYER FOR RELIEF

33. Hall demands judgment and other relief, as follows:

34. Certification of the Class pursuant to Fed. R. Civ. P. 23(b)(3); and appointment of Howard W. Foster, Robert G. Methvin, Jr. and J. Matthew Stephens as class counsel.

35. Judgment in an amount equal to three times the damage caused to the Class by the Defendants' racketeering activity/the Illegal Immigrant Hiring Scheme, pursuant to 18 U.S.C. § 1964(c);

36. For appropriate attorney's fees, pursuant to 18 U.S.C. § 1964;

37. For the costs of this action;

38. For a jury trial;

39. For preliminary and permanent injunctions against the Defendants from perpetrating further racketeering activity.

40. For any other relief the Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY STRUCK JURY

DATED: March 15, 2007

By  _____

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