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US Farmworkers Displaced by Guestworkers Sue Employers for Discrimination, Violation of Worker Protection Laws

U.S. law requires growers to hire domestic farmworkers before relying on foreign farm labor

[Yuma, Arizona] Over two hundred US farmworkers who lost their jobs to foreign guestworkers filed suit today in US District Court in Arizona against their employers, for discrimination and violation of the Migrant and Seasonal Agricultural Worker Protection Act (AWPA). The farmworkers are represented by Farmworker Justice, a national litigation and advocacy organization based in Washington DC and Community Legal Services, a not-for-profit civil law firm in Arizona.

The lawsuit filed today alleges that in 2006, instead of rehiring from an existing labor pool of U.S. farmworkers, *Servicios Agrícolas Mex. Inc.*, an Arizona farm labor contractor, with the support of grower Marlin Ranching Company, requested permission to import 150 foreign guestworkers to harvest citrus crops. In its application to the U.S. government, the labor contractor contended that it could not find US workers to do the work.

“Most of our clients loyally worked for *Servicios* year after year,” states Pamela Bridge, an attorney at Community Legal Services. “They felt betrayed that their employer chose to hire guestworkers instead of themselves. These are low income US workers who counted on that employment for their families.”

To protect the wages and working conditions of the domestic agricultural workforce, federal law requires employers to extend a preference to qualified U.S. farmworkers before turning to foreign farm labor. The US farmworkers claim that the labor contractor failed to contact them at the beginning of the harvest season, as it had in all previous seasons, when it was not trying to import foreign labor. Having heard nothing about the upcoming season, workers approached the contractor directly and were told falsely, that no jobs were available.

In addition to violating the AWPA, several farmworkers who hold US citizenship claim discrimination, since the employers refused to recruit or re-hire them, favoring foreign workers., instead.

“This case addresses serious abuses in the H-2A foreign guestworker program,” said Marni Willenson, an attorney with Farmworker Justice. “Employers are not permitted to import foreign labor when US workers are available. The law is supposed to protect the rights of US workers, first. Unfortunately, we have observed that this sort of displacement is becoming more common, because foreign labor is cheap and the Department of Labor will approve employer applications without any real scrutiny of the claim that US workers cannot be found.”

The workers are seeking back pay for lost wages and an injunction to prevent the employer from discriminating against US workers in their hiring practices.

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