



CRLA IN THE NEWS

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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Register-Pajaronian

WATSONVILLE, CA • JANUARY 17, 2007

MINIMUM WAGE LAWSUITS SETTLED

By Amanda Schoenberg

A lawsuit filed by California Rural Legal Assistance against MayWay Wash and Dry over charges the Watsonville business paid an employee less than the minimum wage was settled Thursday for \$16,000.

Under the settlement reached through mediation by Santa Cruz Superior Court Judge Robert Attack, MayWay Wash and Dry and owner Walid Sublaban will pay \$16,000 to plaintiff Dolores Angeles. If the business does not pay within 90 days, the amount will increase to \$22,000, according to CRLA staff attorney Luis Alejo.

The settlement is not an admission of liability by the employer or the worker. Owners of the East Lake Avenue business also agreed to abide by state wage laws in the future, Alejo said. In the lawsuit, the business was accused of not paying overtime wages or providing breaks and failing to maintain payroll records and provide itemized wage statements to employees.

According to Alejo, the case has already affected workers. He said owners have hired a payroll agency and workers are paid with itemized wage statements, instead of cash, and have lunch and rest breaks.

“It was a great outcome because it was a worker who stood up for her rights and was able to obtain justice in the end,” Alejo said.

According to Alejo, Angeles worked at the laundry for two and a half years, where she was paid \$170

“It was a great outcome because it was a worker who stood up for her rights and was able to obtain justice in the end.”

per week for 44 hours of work, which adds up to \$3.86 an hour. When Angeles requested more money, Alejo charges that her wage was increased to \$200 a week, but her hours were increased to 53 per week.

When Angeles worked at MayWay, state minimum wage was set at \$6.75 an hour.

Sublaban’s attorney, John Hannon II, said the facts remained in dispute, despite Thursday’s settlement.

“We never agreed that those facts were true,” he said.

“While we’re not exactly thrilled, the decision is probably correct because they were asking for \$42,000 and they got a whole lot less,” Hannon said. “My client made an economic decision.”

According to Alejo, business owners can risk stiff fines for not providing wage statements or providing back salary to employees. In addition to civil penalties, employers can face criminal charges for not paying taxes on wages.



CRLA often sees cases involving local workers who do not confront employers about labor practices, Alejo said.

“One of the biggest cases is when workers are afraid to assert their rights or don’t know who to turn to,” he said.

After the settlement, Angeles, 57, who arrived in Watsonville from Michoacan, Mexico, five years ago, said she was satisfied with the outcome. Before working at MayWay, she said she was not aware of minimum wage or break requirements. She was not sure where to go for help when she was fired from her job, but co-workers asked her to speak out, she said.

“It is great that this was settled now,” Angeles said. “I hope businesses don’t keep taking advantage of us. We are poor, humble people.”

The Desert Sun

PALM SPRINGS, CA • JUNE 22, 2007

FARMWORKERS FACING EVICTIONS

By Nicole C. Brambila

On the very day the Coachella Valley Housing Coalition celebrated placing 39 families into homes of their own, the nonprofit organization nearly put a family of 10 on the streets.

Riverside County sheriff’s deputies were told to put a lock on Edith Carbajal’s mobile home in Mecca on Thursday, before the housing agency reversed its decision to evict her family for missing a \$265 rent payment.

The reprieve Thursday afternoon followed a story posted on thedesertsun.com.

Eight-months pregnant and single with nine children, Carbajal had already moved plastic garbage sacks of clothing into her sister’s mobile home Thursday afternoon.

Despite her July 20 due date, the 44-year-old farmworker continues to stoop in a valley vineyard to put food on her table.

“Bills, they don’t pay themselves,” explained her 18-year-old son, Sergio Dominguez.

She met the news Thursday with relief, and tears.

Carbajal is one of six farmworker families – out of work because of freezing temperatures in November and December – that faced eviction from the Paseo De Los Heros Mobile Home Park in Mecca.

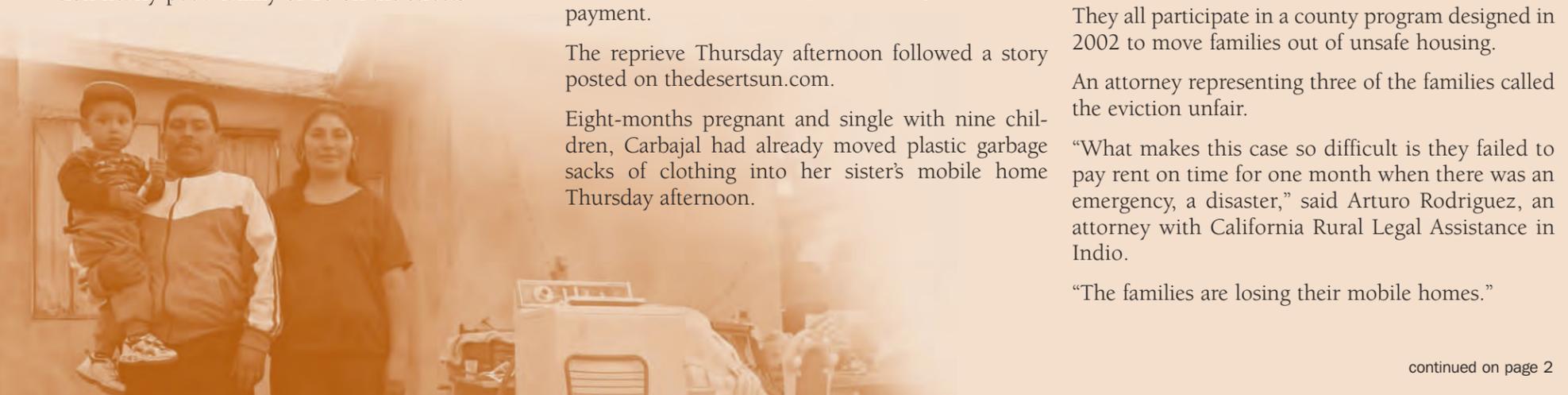
They all participate in a county program designed in 2002 to move families out of unsafe housing.

An attorney representing three of the families called the eviction unfair.

“What makes this case so difficult is they failed to pay rent on time for one month when there was an emergency, a disaster,” said Arturo Rodriguez, an attorney with California Rural Legal Assistance in Indio.

“The families are losing their mobile homes.”

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Appeal-Democrat

MARYSVILLE, CA • OCTOBER 29, 2006

PUBLIC INTEREST IS HIS THING

By Harold Kruger

Lee Pliscou says he became a lawyer because his father told him he should.

“My dad was right about so many things, I figured he might be right about this as well – plus I didn't have a better plan,” said Pliscou, now directing attorney of the California Rural Legal Assistance office in Marysville. “My dad was not a lawyer. We grew up in a small community in Imperial County, and my dad, without any particular skills or training, became a gadfly.”

Pliscou, who was raised in El Centro, said his father would write letters to the editor of the local newspaper and became “a bit of a local celebrity. I don't know that he had any particular agenda that he followed, but he certainly had a heart for the underdog.”

Pliscou's father “had no particular status in the community, other than he was right about a lot of things,” his son said, and was “pretty much a huge character.”

Pliscou, 49, didn't go straight into public-interest law out of law school.

He said he had “zero interest” in becoming a corporate lawyer.

“I joined the Coast Guard out of law school,” he said. “That's helping people, pulling drowning people out of the water. That's my idea of helping people.”

After he got out of the Coast Guard, Pliscou got a call from CRLA.

“Ever since that time, I've been, to use the analogy, pulling drowning bodies out of the water, perhaps not so dramatically,” he said.

Founded in the mid-1960s, CRLA, a nonprofit, provides legal services to about 20,000 poor, rural



Photo by John Hollis

*“It wasn't until
I practiced law
that I knew what
was going on
behind the scenes.”*

Californians, including migrant workers, annually. It has 22 offices throughout the state. California Rural Legal Assistance gets much of its funding from the federal Legal Services Corporation.

Being a lawyer allows Pliscou to peek “behind the facade” of a community.

“It wasn't until I practiced law that I knew what was going on behind the scenes,” he said.

Yuba-Sutter is a “really unique” place because “the problems that my individual clients have are connected and interrelated to so many social and economic factors that exist in this community,”

he said. “It's difficult to feel effective in representing my clients without thinking and addressing some of the more systemic and deep social and economic problems.”

Yuba and Sutter counties “are among the poorest counties in the state,” Pliscou said.

It's a tough job, he said, but “now that I'm married and have kids, I'm not burned out anymore. I have something important to do besides work. The kind of work I do, there was nothing I had in life as important as that. It's easy to spend too much time doing work. Now I know the kids are waiting for me at home, so I go home and I'm not burned out.”

Harold Kruger is a veteran reporter and copy editor for the Appeal-Democrat. His column, “Off Beat,” appears Sundays. He can be reached at 749-4717, or via e-mail at hkruger@appealdemocrat.com

SPECIAL THANKS

TO THE LAW FIRM OF
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in pro bono services
assisting CRLA in
its defense during recent
governmental investigations.

FARMWORKERS FACING EVICTIONS

continued from page 1

Carbajal did not qualify for services with California Rural Legal Assistance and is not represented by Rodriguez. The three families Rodriguez represented in court last week received judicial relief and will be permitted to pay their back rent. Two other families still face eviction.

“Each case stands on its own,” said Pedro Rodriguez, chief financial officer with the Coachella Valley Housing Coalition. “We'll respect the judge's order on those three cases.”

Community activists formed the Coachella Valley Housing Coalition in 1982 to address the lack of descent farmworker housing. The nonprofit agency has built nearly 3,000 homes and apartments for low-income families in Riverside and Imperial Counties, their Web site says.

Carbajal's eviction would have been the first since the park opened in 2004. Instead, two of the six families were evicted.

“This was a very difficult decision,” Pedro Rodriguez said. “We don't normally evict people.”

Manicured lawns dot the paved streets in Paseo De Los Heros Mobile Home Park in Mecca where a barefoot child chases after an ice cream truck.

It's a very different scene from the dirt roads that are littered with potholes and ramshackle mobile homes where many of the Paseo De Los Heros residents once lived.

“I don't have anything without my house,” Isabel Salgado said in Spanish.

Salgado, whose 18-year-old college-bound son represented the family in court earlier in the week, heads back on Monday to fight her family's eviction.

Fearing a sheriff's deputy early morning knock on the door, Mireya Perez vacated her mobile home along with her husband, six children and mother.

Rodriguez is hopeful the Housing Coalition will permit the family to return home if they, as the others, pay back rent and about \$1,300 in attorney fees and court costs.

All the families said they fell on hard times because of 13 days of at or below freezing temperatures

last fall that preceded the January frost, which damaged \$86 million in Riverside County crops. For the latter freeze, Gov. Arnold Schwarzenegger declared a state of emergency Jan. 10, in 58 counties, including Riverside.

More than 75 percent of Coachella Valley farmworkers earn less than \$15,000 a year, according to a 2006 survey released earlier this year. Yet, it generally costs nearly \$1,000 a month to house a family of four in most of the valley's nine cities and unincorporated areas.

Desert Alliance for Community Empowerment offered to help the families with money earmarked for disaster relief from an \$80,000 California Endowment grant.

“I'm trying to find a good ending,” Pedro Rodriguez said. “We're in the business of providing affordable housing to people.”

MOBILE HOME PROGRAM

The Mobile Home Tenant Assistance Loan Program offers interest-free loans to mobile home owners in unpermitted parks in danger of being condemned.

Monterey County Weekly

MONTEREY, CA • JULY 12, 2007

PESTICIDES GET GREEN LIGHT CALIFORNIA RURAL LEGAL ASSISTANCE ATTORNEYS APPEAL THE DECISION TO THE STATE

By Zachary Stahl



Marilyn Lynds-Dismukes and her neighbors in Moss Landing thought they had it bad last year when a farmer planned to pump methyl bromide into the soil outside their homes. Methyl bromide, a fumigant used to kill parasites and weeds, has been proven to cause neurological damage and reproductive harm. But now, instead of this dangerous chemical, Lynds-Dismukes and her family could be breathing a pesticide cocktail of telone, a likely carcinogen, and chloropicrin, a tear-gas-like toxin that can cause vomiting.

The chemicals will also be applied closer to home. While methyl bromide can't be applied within 300 feet of residences, the state Department of Pesticide Regulation only requires a 100-foot buffer for telone and chloropicrin. This is unnerving to Lynds-Dismukes.

"Nobody in this neighborhood wants to be poisoned or see their kids poisoned," she says while sitting in her wheelchair with a small crowd of neighbors on Portero Road near Highway 1.

Lynds-Dismukes has post-polio syndrome and her husband is recovering from cancer. Neither of them wants to jeopardize their health further with pesticide exposure. Plus, they have an 11-year daughter, who is home schooled and likes to play outside.

"These pesticides are known to affect your development system and she is just starting to grow," Lynds-Dismukes says.

Across Portero Road is a plot of green lettuce shoots and ag fields that stretch to the Salinas River. Farmers have long grown artichokes and row crops on the land near Moss Landing Heights. The small neighborhood protested last year when

"While chloropicrin and telone are designed to control nematodes or roundworms, and certain soil-borne pathogens, they are also toxic to humans."

San Juan Berry Farm tried to plant strawberries and apply methyl bromide on 26 acres close to their homes. The farm then moved its berries back 1,000 feet from the residents.

But now Steve Rodoni of Springfield Farms wants to fumigate more than 54 of these acres to grow strawberries. Rodoni selected telone and chloropicrin as an alternative to the unpopular methyl bromide, which will soon be phased out due to its effects on the ozone layer. Rodoni did not return calls seeking comment.

Farmers are expected to increasingly use a mix of telone and chloropicrin as methyl bromide becomes less available. While chloropicrin and telone are designed to control nematodes or roundworms, and certain soil-borne pathogens, they are also toxic to humans.

Telone, also called 1,3-Dichloropropene, can cause irreversible eye damage. Rats exposed to the chemical developed tumors in their lungs, liver, thyroid and other parts of their body. Still, the EPA concludes that even after 30 years of exposure, the chance of humans developing cancer from telone is still a long shot.

The US Environmental Protection Agency classifies chloropicrin in the highest toxicity category because it is extremely irritating to the eyes, skin and upper respiratory tract. The latest chloropicrin poisoning occurred in October 2005, when the pesticide drifted into the Creekbridge neighborhood in Salinas and sickened about 60 residents.

On July 3 Rodoni received the green light from the Monterey County Agricultural Commissioner to inject the pesticides into the soil over a three-month period, starting July 15. Telone and chloropicrin would be used on the 13 acres of crops directly across the street from Moss Landing Heights. A mixture of methyl bromide and chloropicrin would be applied to the rest. The use of less methyl bromide and assurances by the Agricultural Commissioner haven't made residents feel any safer.

Salinas' California Rural Legal Assistance office has appealed the decision to the California Department of Pesticide Regulation.

Although the chemicals will be injected into the ground, this doesn't mean that neighbors won't be exposed to the toxins. Residents fear they will be breathing in the fumigants when they off-gas to the atmosphere. According to the EPA, people who live near fields injected with telone may be exposed to a volatilized form of the substance for two weeks after the application.

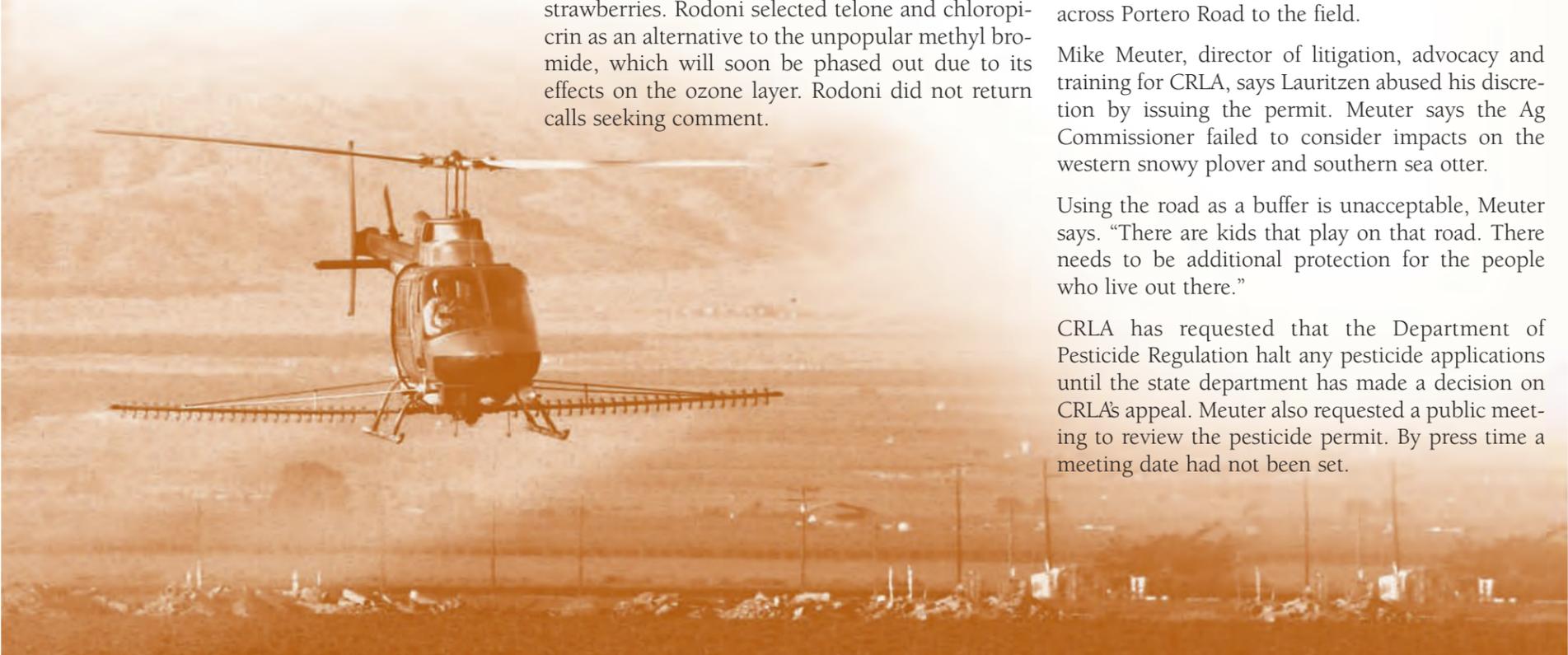
In his decision to uphold the pesticide permit, Ag Commissioner Eric Lauritzen said Rodoni will follow all state regulations to mitigate any exposure to off-gassing. Any drift that could occur during the application is very unlikely since the fumigants will be injected at least 10 inches into the ground, Lauritzen says. "In evaluating proposed pesticide applications our most important priority is human safety, and we do not compromise on that," he says.

Due to residents' concerns, including 52 letters, Lauritzen extended the buffer zone by 25 feet. So instead of the barrier starting at their doorsteps, it would start at their property lines and go 100 feet across Portero Road to the field.

Mike Meuter, director of litigation, advocacy and training for CRLA, says Lauritzen abused his discretion by issuing the permit. Meuter says the Ag Commissioner failed to consider impacts on the western snowy plover and southern sea otter.

Using the road as a buffer is unacceptable, Meuter says. "There are kids that play on that road. There needs to be additional protection for the people who live out there."

CRLA has requested that the Department of Pesticide Regulation halt any pesticide applications until the state department has made a decision on CRLA's appeal. Meuter also requested a public meeting to review the pesticide permit. By press time a meeting date had not been set.



Los Angeles Times

LOS ANGELES, CA • NOVEMBER 5, 2006

IN THE FIELDS, A RUDE AWAKENING

By Lee Romney, Staff Writer

For some laborers, U.S. guest worker program was a bitter letdown that fell short of their dream.

Tulelake, California — The ad in his hometown newspaper was enticing, the meeting with a company recruiter even more so.

For six to eight weeks of strawberry work, Ricardo Valle and his wife, Ana Luisa Salinas, would get good pay, free transportation to and from Mexico with food included, three daily meals — even a little cabanita with a kitchenette that they would share with just one other couple.

Like most of the 250 Mexicans on U.S. guest worker visas who arrived Sept. 22 at this lonely post near the Oregon border, Valle and Salinas did the math: In the contract period promised, they could make more than they would in a year and a half in Nogales, Mexico. Valle quit his maquiladora job, where for a dozen years he had assembled electric curtain motors.

As strict immigration enforcement limits the pool of available farmhands, growers are clamoring to expand the federal guest worker program. But the experience of the workers, whose contract ended last week, offers a rare look at the system's potential pitfalls. In interviews and legal declarations, dozens of workers have said they went hungry not just on the bus north but in the weeks that followed. Instead of the cabanitas, they got crowded dorms. They were also paid less than they'd been told they would be — and less than the law required — for a shorter period than they'd been promised.

“From the moment we got on the bus in Nogales, we knew they were feeding us lies,” Valle, 52, said as he tended to his sick wife in a cramped dormitory set up in an exhibition hall on the county fairgrounds here. On the bus, he said, “they gave us a liquid diet — pure water — for 24 hours. Those who had money could eat. The rest of us, we ate air.”

After they arrived in Tulelake, the workers said, they found out their contract term had been cut nearly in half, to just over a month. Furthermore, they were required to trim 1,025 strawberry plants per hour to prepare them for later transplantation. Without farm experience, meeting the goal proved so grueling that they worked through breaks and lunchtime.

“From the moment we got on the bus in Nogales, we knew they were feeding us lies... they gave us a liquid diet — pure water — for 24 hours. Those who had money could eat. The rest of us, we ate air.”



Salomon Sarita Sanchez works in a crew of strawberry pickers, made up of indigenous Mixtec immigrants from Oaxaca.

Many failed and quit. Others were fired. Soon, only a little over half the original workforce was left. The employer, Sierra-Cascade Nursery of Susanville, Calif., is now under investigation by the U.S. Department of Labor, which oversees the guest worker program. California's Department of Industrial Relations has ordered the company to correct numerous wage violations and conduct a self-audit.

And, responding to an emergency request by attorneys for the nonprofit advocacy group California Rural Legal Assistance, a federal judge two weeks ago ordered Sierra-Cascade to make meals more nutritious, give workers more living space and heat the fairgrounds' frigid shower rooms.

Sierra-Cascade's human resources director, Larry Memmott, said the company was using the visa program for the first time and had made mistakes.

“We may not have provided the proper food for them in the beginning,” he said. “We may have missed a meal. But we went in and corrected what we need to correct... We'll take our lumps and move forward.”

The complaining workers were “bad apples,” he added.

Advocates with California Rural Legal Assistance, which has filed suit on behalf of more than 50 workers, point instead to systemic problems that arise when human labor becomes an importable commodity. Employees entirely dependent on the sponsoring company are unfamiliar with the law and unlikely to complain, they say.

“Unlike workers in any other part of the free market, who have the ability to vote with their feet, these workers don't,” said Mark Schacht of the rural legal group's foundation, which plans to propose state legislation to strengthen worker protections.

“These guys get delivered when the employer wants. They get taken away when the employer wants, and they are subjected to a regime that has elements of un-free labor.”

Sierra-Cascade's seedlings are grown in Northern California and Oregon, then trimmed and shipped to warmer climates. In 2004, Memmott said, an immigration review indicated that 80% of the company's workers were undocumented.

“Last year, we couldn't fill our trim shed at all,” Memmott said. “We figured that this year we weren't going to wait and see.”

Memmott recruited in the state of Chihuahua and in neighboring Sonora, which has achieved relative prosperity from ranching and multinational assembly plants known as maquiladoras.

Some learned of the jobs through friends. Some saw fliers. Rigoberto Talamantes Flores and his wife, Alicia Punuelas Ledezma, both 42, of Nuevo Casa Grande, Chihuahua, heard a radio pitch. “We thought we would come, because of the illusion that it would alleviate some of the economic pressures on us,” said Flores, who shuttered his shoeshine shop to make the trip.

They said they were told the pay would be \$9 an hour — the legally required rate under the program — plus production bonuses. Nowhere in the solicitation, workers said, was any mention of the high work quota. That was disclosed only in the contracts handed out at night in Susanville, where the bus dropped off 200 visa holders before taking the Tulelake workers farther north.

Disappointments multiplied upon arrival. The site of the nation's largest World War II Japanese internment camp, Tulelake sits in a desolate volcanic basin of rich soil. Road signs warn motorists not to run down migrating fowl, more numerous here than humans.

"We were cramped so close together that our legs would knock when we put on our shoes," Reyna Amelia Tarango Ponce, 45, whose husband closed his Chihuahua brake shop to come north, said of the dormitories.

At first, couples were housed with single women – until a man was accused of a sexual assault during the night. Foreman Javier Chavez fired the accused worker and installed wooden barriers to split the room.

The eight-hour days that workers say they were promised, and for which they were paid, quickly stretched to 10 – and longer, with the bus ride to the trim shed, where they stood in the cold for up to an hour waiting to begin.

Breakfast at first consisted of bread and coffee; after a few weeks the food did improve when Memmott changed cooks. Come payday, many workers were unable to cash their checks in the tiny town, whose bank is closed Saturdays and charges \$15 for the service.

"We have nothing – not even enough to buy soap," said Valle, who, without change for the laundry machines, spent Sundays scrubbing clothes under a cold outdoor spigot and drying them on the fairgrounds' chain-link fence.

The gloves, aprons and boots that advocates say are required by law – to protect workers from such hazards as icy plants and knife blades – were not provided, though some workers purchased them.

Attorneys for the workers say the production quota is unreasonable and should have been disclosed during recruitment. Memmott says he showed them a video and told them: "It's going to be cold. It's going to be hard work."

Many others make the grade, he said. Most are domestic hires – experienced migrants from the poorer farming states of Oaxaca and Michoacan. The working conditions, housing, wages and food are no better or worse than what they are used to, said 28-year-old Alejandro Ramirez of Zamora, Michoacan. "Those on the contract, they were made certain promises," he said. "But for us, it's pretty good."

On a recent morning in the company's trim shed, 18-year-old Federico Hernandez of Oaxaca moved with a spasmodic rhythm, his hands twitching and his feet dancing as he separated plants at the roots. Working this way, he said proudly, he could trim 1,200 plants an hour and make a decent wage.

But a lack of experience hampered many of the visa holders.

It was a Oaxacan laborer from the Central Valley who took pity on the visa holders. The worker called an activist in Oaxaca, who in turn contacted an organizer at the Fresno office of the rural law group. That organization alerted regulators and dispatched attorneys to Tulelake.

Memmott said his company is cooperating with the U.S. Department of Labor. In response to the agency, he said, the laundry machines now operate without coins and the kitchen is serving healthier fare.

Meanwhile, the state Department of Industrial Relations' Division of Labor Standards Enforcement has notified Sierra-Cascade that it is violating labor law by failing to pay overtime after eight hours, to ensure rest breaks and a 30-minute lunch break, and to compensate workers for time in transit and waiting to begin work.

"These guys get delivered when the employer wants. They get taken away when the employer wants, and they are subjected to a regime that has elements of un-free labor."

They "intend to correct the issues we've addressed and pay restitution to their employees," said Dean Fryer of the Department of Industrial Relations.

The pending lawsuit alleges, among other violations, that the company, through false representations, enticed the workers across an international border.

Memmott attributed the problems to the program's learning curve. Sierra-Cascade had planned to provide couples the more private housing in nearby Newell, he added. But when fewer guest workers arrived than anticipated, the company opted to save the cost and time of busing them farther.

Next year, he said, the company might seek some more-experienced workers farther south in Mexico. Advocates, however, say they may petition the U.S. Department of Labor to block Sierra-Cascade from using the program.

The company has pledged to make workers whole. Still, some damage cannot be undone, workers said. In Mexico, where age discrimination is pervasive, Valle is certain he will never get his maquiladora job back.

"Twelve years to quit for the American Dream, which is now a nightmare," he said.

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ABA Journal

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A PRIVILEGE TO SERVE BATTLE OVER LEGAL AID FUNDS SPILLS OVER TO ATTORNEY CLIENT CONFIDENTIALITY

By Margaret Graham Tebo

A dispute between the Legal Services Corp., the federal clearinghouse for funding legal aid to indigents, and a legal aid office in California is testing the limits and definition of attorney client privilege.

California Rural Legal Assistance, based in San Francisco, is resisting a subpoena issued last fall by the LSC's inspector general to turn over names of clients and information about their cases.

It's the latest salvo in a six year dispute between the LSC and the California organization, which employs 53 lawyers in 22 offices around the state. Like all LSC grantees, clients of California Rural Legal Assistance must meet income threshold requirements. Many work in the local farming and ranching economy.

The LSC inspector general, Kirt West, says his office resorted to a subpoena only after repeatedly failing in its attempts to get CRLA to voluntarily provide the information as part of an audit. Citing the investigation, he declined to say why his office is seeking the information or what investigators expect to find.

The LSC says the information is not privileged, and it is needed to show how the California group uses the money it receives from the LSC. Grantees must allow such audits in order to receive funding from the congressionally chartered and funded LSC.

But CRLA Executive Director Jose Padilla says sensitive client interests would be compromised by compliance with the subpoena, which seeks records on nearly 40,000 clients from the last three years.

For example, he says, revealing names and case types would allow employers to find out who has been seeking legal help on labor rights. Many employers would likely retaliate by firing workers who cannot afford to lose their jobs, says Padilla.

Other clients are victims of domestic violence who may not have left abusive situations and whose abusers could find out that they have sought legal help, he adds.

"We are a professional law firm, and we have to protect our clients' privacy rights," Padilla says. "That's an ethical duty of lawyers, and it's a statutory requirement in California as well." California's strict privacy laws prohibit agencies from revealing personal information without an individual's consent. Padilla says his counsel has determined that the information sought by the LSC is protected by California law.

For his part, the LSC's West says federal law governs, allowing the LSC to audit grantees. West says his office needs the information to ensure that the California group is using its grant money for the purposes designated by Congress. West contends that the information he seeks--primarily client names and case types--is not privileged.

Left in a Bind

The question of whether federal statutes that apply to LSC grantees take precedence over state privacy laws and attorney client privilege puts CRLA lawyers in a bind. If they comply voluntarily with the inspector general's request for information, they could risk disciplinary action by California bar authorities or even civil action for violating privacy laws.

*Based on the facts we saw,
we were deeply concerned
that this appears to be
a troubling intrusion by a
Government Grant Agency.*

- R. William Ide

Last spring, then ABA President Michael S. Greco of Boston directed the Task Force on Attorney Client Privilege to review the question of whether the information is protected.

R. William Ide III of Atlanta, a former ABA president who chairs the task force, says he was disturbed by what he sees as government intrusion into the relationship between attorneys and clients.

"Based on the facts we saw, we were deeply concerned that this appears to be a troubling intrusion by a government grant agency," says Ide. "Should the states regulate lawyer ethics? Yes. Should a federal grant agency be able to say, 'We gave you money so we get to audit'? That's a much different question."

Deborah Hankinson, chair of the ABA Standing Committee on Legal Aid and Indigent Defendants, says the LSC's audit authority doesn't change the nature of attorney client privilege for grantee organizations such as CRLA. She says clients should be allowed to seek legal counsel in confidence without worrying that even the fact of their meeting will be revealed.

"In my view, there is no difference between this and a private attorney being asked for information that compromises a client's interests," says Hankinson, who heads her own law firm in Dallas.

"The ABA has always stood for lawyers maintaining the highest ethical standards and not seeing them eroded as would happen here," Hankinson says.

Though West says he has no intention of sharing the information outside of the LSC, he would not promise that his office would withhold the information if it were requested by Congress.

That troubles Padilla, who contends that the investigation is a witch hunt prompted by local ranch owners who vehemently oppose CRLA's work to protect labor rights.

California Rural Legal Assistance Executive Director Jose Padilla contends his organization is the target of a witch hunt. Photo by Melissa Barnes

West declines to identify who brought allegations of "irregularities" to the attention of his office. In an interim report to the Subcommittee on Commercial and Administrative Law of the U.S. House Judiciary Committee, West said that his office found evidence that CRLA has violated federal laws governing the work LSC grantees are allowed to undertake.

Specifically, West said in the report, CRLA had solicited clients, worked on a fee generating case, requested attorney fees in a successful lawsuit and "associated with political activities." All are prohibited under federal law for grantees using LSC funds. In 1996, Congress enacted reforms to statutes governing LSC funding, specifically outlawing use of LSC money for most class actions. The changes target activities not directly related to the representation of individual, identifiable clients with specific legal causes of action against a particular opposing party. The amendments also prohibit political activities, amicus briefs and monitoring private or governmental agencies for compliance with federal statutes.

In his report, West says he is still looking into allegations of whether CRLA used LSC funds to engage in lobbying, employer monitoring, filing amicus briefs and filing cases on behalf of the "general public" under California unfair competition laws. While state law allows private civil actions on behalf of the general public in some circumstances, federal law prohibits use of LSC funds for such litigation.

In addition, West says he needs more information to determine whether CRLA "disproportionately focuses its resources on farm worker and Latino work, and, if so, whether such practice is inappropriate for an LSC grantee."

"That's Just the Way it Works"

Padilla asserts that the last allegation is at the core of the investigation. He says many ranchers in the area employ both legal and illegal Hispanic laborers, and the LSC may be trying to show that CRLA has represented illegal workers. He also points out that CRLA is aware that federal law prohibits using LSC funds for such representation, and that care is taken to ensure named parties in labor lawsuits are legal.

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CRLA OFFICES

A PRIVILEGE TO SERVE

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“But when we win, and a rancher has to change his ways, it benefits all of his workers, including the immigrants without papers. That’s just the way it works,” says Padilla.

Padilla says the allegation smacks of interfering in his organization’s priority setting process. He worries that the information West’s office has requested will be scrutinized in part based on the actual or perceived ethnicity of the client a move he says has civil rights implications.

Padilla also believes the inspector general is overreaching his authority with some of the allegations. Federal laws are specific about forbidden activities, he says, but some allegations in West’s report seem to expand the definitions of what is prohibited.

“We understand that we have to practice within certain restrictions, but there are enough restrictions without the IG expanding the restrictions beyond his authority,” Padilla says.

West declines to be specific about the allegations in his report.

“We will finish our investigation and make our recommendations for action, if any, to the LSC board of directors. At that time, the information becomes public,” he says.

The ABA’s Ide says CRLA has long established ABA policy on its side in the dispute over information protected by the attorney client privilege.

“The basic issue is that everyone is entitled to effective assistance of counsel,” says Ide, “and that can only happen where the nature of the representation is controlled by the attorney and the client, not a federal agency. This audit request has a potentially devastating chilling effect.”

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CRLA IN THE NEWS



CRLA and the California Rural Legal Assistance Foundation (CRLAF) have joined forces to create the **Agricultural Worker Health Project (AWHP)**. The goal of AWHP is to improve farm worker health and safety in the fields and in farm worker housing. AWHP also seeks to assure that rural communities have access to safe drinking water and secure transportation for farm workers.

Please visit www.agworkerhealth.org to learn more about our efforts to eliminate dangerous working and living conditions faced by farm workers.

CRLA AND CRLAF ARE PROUD TO LAUNCH A NEW WEBSITE FOR THE AGRICULTURAL WORKER HEALTH PROJECT!

FOR MORE INFORMATION CONTACT CLAIRE RASE 415-777-2794 X309 OR AT CRASE@CRLA.ORG

OCTOBER 14, 2007 | **NOVEMBER 2, 2007** | **SAN FRANCISCO, CA** | **SAN DIEGO, CA**



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