

FOR IMMEDIATE RELEASE:

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**IN A LANDMARK EMPLOYMENT CASE:
CALIFORNIA SUPREME COURT ISSUES DECISION IN FAVOR OF
CALIFORNIA WORKERS.** (Martinez, et al. v. Combs, et al, S121552, decision filed 5/20/10

San Francisco, CA. On May 20, 2010 the California Supreme Court issued a decision affirming that workers can turn to the broad standards provided under long-standing Industrial Welfare Commission (IWC) regulations to identify which employer is liable for unpaid minimum wages. The Court rejected the employers' attempts to limit the scope of the IWC's power to common law concepts:

“One cannot overstate the impact of a such a holding on the IWC's powers. Were we to define employment exclusively according to the common law in civil actions for unpaid wages we would render the Commission's definitions effectively meaningless.” Decision at 36.

California Rural Legal Assistance, Inc. (CRLA) and Talamantes/Villegas/Carrera, LLP, filed a lawsuit on behalf of six farm workers who picked strawberries in Santa Barbara County during the 2000 growing season. Those workers, representing approximately 180 workers, alleged that their direct employer, Isidrio Munoz, failed to pay them minimum wage and overtime pay. The workers also sued Apio, Inc. and Combs Distribution, who had contracted with Munoz to raise and harvest the berries. Although the Court did not hold Apio or Combs ultimately liable as employers, concluding that they did not offer to directly employ the workers and did not have the power to stop the work, the Court identified and affirmed California employer liability for wages under the IWC regulations:

“To employ... means: (a) to exercise control over the wages, hours or working conditions, *or* (b) to suffer or permit to work, *or* (c) to engage, thereby creating a common law employment relationship.” Decision at 35.

Additionally, the court, following historic precedent in other states, established for the first time in California a bright line to be applied when determining when "suffer or permit" applies: "A proprietor who knows that persons are working in his or her business without having been formally hired, or while being paid less than the minimum wage, clearly suffers or permits that work by failing to prevent it, while having the power to do so." Decision at 42. In doing so the court made clear that California employment law is not controlled by federal precedent and that the IWC's power to regulate wages and working conditions extends to determining who has responsibility for doing so.

“Never before has the Court been so clear in identifying how an exploited employee can identify who is ultimately liable for wages as the employer.” said CRLA's Bill Hoerger, lead counsel for the Martinez plaintiffs. “This case makes it much harder for employers in California to escape and hide from liability. No longer can employers expect to hide behind subcontractors who supply the labor without the risk of being directly liable,” said CELA member Mark Talamantes, with Talamantes/Villegas/Carrera, LLP.

