

Heat Stroke—the Newest Lawsuit Threat

It used to be that heat stroke, passing out, suffering the effects of, or possibly being injured or even killed by it were all considered as potential liabilities of farming and being out in the elements.

Not so these days. There are growing cries of farmer culpability in the occurrences of heat stroke or exhaustion. Best to heed the warnings out there and prepare for litigation for each and every field workers' bout with it. Reports are coming in from all over the country, almost all brought on by deaths of workers this growing season.

Here are some sources:

Palm Springs, CA-

"A Riverside County Superior Court judge has issued a temporary injunction against a Ventura-based labor contractor after two Coachella Valley farmworkers said they were not provided water or shade while working in the desert heat earlier this month.

"The move forces the company to follow California law, which requires cool drinking water and breaks to prevent heat stress, or face possible contempt charges with fines or jail. As reported on mydesert.com, the case goes to court July 3.

"The June 17 lawsuit sought an emergency order for a temporary injunction against Magaña Labor Services Inc.

"Miguel Angel Magana said from his Fillmore office Tuesday that Magana Labor Services is in complete compliance, noting CalOSHA has also found the firm in complete compliance.

"The suit - brought by attorneys with California Rural Legal Assistance in Coachella - also seeks a permanent injunction and more than \$25,000 in lost wages, benefits, physical suffering and anguish."¹

San Joaquin County, CA-

"The San Joaquin County Coroner's Office has confirmed through autopsy that a pregnant 17-year-old girl died of heat stroke due to occupational environmental exposure.

"United Farm Workers, on behalf of Maria Isabel Vasquez Jimenez's family says it will file a lawsuit against Merced Farm Labor and West Coast Grape Farming Inc. Thursday in Merced Superior Court, alleging wrongful death and general negligence.

"State officials – motivated by Jimenez's death – have been cracking down on farm contractors who violate labor laws. The state has also awarded a \$444,470 grant from United Health Group and PacifiCare to La Cooperativa de Campesina, so the organization can begin tracking the health of the county's migrant workers through personal health record cards."²

Lodi, CA-

"After the tragic May 14 heat-related death of Maria Isabel Vasquez Jimenez in a Farmington vineyard, an emphasis has been placed on farm safety practices for migrant laborers.

"Today, a group of about 70 laborers, contractors, growers and speakers gathered at vineyardist Roland Hatterle's farm to learn about safety and to train in various aspects of harvesting and equipment operation. The sessions come a few weeks before harvest and are held every year.

"Ruben Garcia, who is a farm labor contractor, works with other contractors to bring crews together to learn how to prevent heat stroke, how to detect it if it happens and how to prevent other problems that might occur."³

NC-

"Here's a category in which North Carolina shouldn't be leading the nation: heat-related deaths of workers. Yet there we are in a new report, No. 1, far ahead of Florida and California. Even for a hot-weather state heavy on agriculture, that's a shame.

"The recently reported figures -- North Carolina's heat-related death rate was 2.36 per 100,000 workers -- are from several years back. But more recent numbers tell a similar story, and point to farm workers as especially susceptible to heat stroke. Migrant workers are the main victims.

"Yet no state laws here require cool-off areas, breaks and training about heat sickness. Instead, this year the state Department of Labor is sending informational material about heat to farmers."⁴

¹ Nicole C. Brambila, "*Judge sides with farmworkers' suit*," June 24, 2008. Website at: <http://www.mydesert.com/pbs/pbcs.dll/article?AID=/20080624/NEWS0802/806240339/1006/NEWS01>. (accessed 6-28-08)

² By The Record, "*Coroner confirms teen migrant worker died of heat stroke*," June 18, 2008. Website at: http://www.recordnet.com/apps/pbcs.dll/article?AID=/20080618/A_NEWS/80618011/-1/A_NEWS. (accessed 6-28-08)

³ Marc Lutz, "*Farmworkers learn about safety*," June 25, 2008. Website at: <http://www.lodinews.com/articles/2008/06/25/update/farm-web.txt>. (accessed 6-28-08)

⁴ Editorial, "*Hot work, and a vote*," Jun 23, 2008. Website at: <http://www.newsobserver.com/opinion/editorials/story/1117061.html>. (accessed 6-28-08)