

Lawsuit News (8-18-08)

Although technically speaking, the following articles involve a complaint and a fine, we include these under our 'Lawsuit News' items, as they certainly have the potential for future lawsuits.

UFW Files Complaint

(From the United Farm Workers website at: <http://www.ufwaction.org/campaign/dol308>)

“Last month more than 5,000 UFW supporters sent e-faxes to the Department of Labor (DOL) telling them instead of gutting the current guest worker program, they should be enforcing the regulations that are currently on the books to protect farm workers.

“Yesterday the UFW filed a complaint with the DOL charging that Salinas based Tanimura & Antle—one of the largest vegetable growers in the country--violated federal law by denying jobs to qualified U.S. farm worker--including its own laid-off employees--while hiring temporary foreign workers under the H-2A program. Tanimura & Antle had received approval from the DOL to bring in workers for the 2007-2008 lettuce season based on their claim that they faced a shortage of labor and needed to hire guest workers.

“This is a prime example of the problems with the current H2A program. **Rather than enforcing the laws currently on the books, the new proposed law weakens enforcement standards** and makes it easier for some growers to break the law by not attempting to hire US workers first.

“The Department of Labor already does little to stop employer abuses under the H-2A program. If violations like this are happening under the current law, just imagine the difficulties local US farm workers would face if the changes proposed by the Bush Administration go into effect.”

Farmworker Death Sparks Fine

And from the *Fresno Bee Newspaper*, an article by Dennis Pollock: “*State acts after the death of farmworker in Fresno Co.; company disputes findings,*” 1/18/08. Website at: <http://www.fresnobee.com/business/story/334514.html>.

“A Kingsburg-based farm labor contractor has been fined nearly \$26,000 in connection with the death of farmworker Eladio Hernandez.

“Hernandez died while working in a Fresno County orchard May 9.

“YNT Harvesting is appealing and disputing findings made by the California Division of Occupational Safety and Health, said Yolanda Calvillo, who owns the company with Kenneth Anthony Duerksen.

“The death pinpoints the need for better enforcement of state laws to prevent fatalities tied to heat stress, said Armando Elenes, a United Farm Workers organizer, and Silas Shawver, a lawyer with California Rural Legal Assistance in Fresno.

“Hernandez, 54, died from cardiac arrhythmia while working in a peach orchard in the Kettleman Hills area. The state agency fined YNT for not providing employees with written emergency procedures, for not making sure Hernandez was acclimatized to temperatures in the mid-90s that day and for not providing the crew boss with equipment needed to summon medical help to the remote orchard.”