

Lawsuits expose conditions in US “guest worker” program

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A federal judge last week awarded \$1.9 million to 600 local Yakima Valley, Washington farm workers in compensation for illegal treatment by Global Horizons, one of the country’s largest labor contractors.

The judge found “undisputed evidence” that Global Horizons, contracting for two local growers, Valley Fruit Orchards and Acre Farms, violated six federal labor laws in their employment of Yakima Valley fruit orchard workers. These violations included firing workers for not meeting undisclosed productivity requirements, misleading workers about the piece-rates they would be given, and misinforming workers about available transportation options.

Even before the court ruling, Global Horizons lost its license to operate in the state of Washington because it deducted income tax from workers’ paychecks—in a state that has no income tax.

The court found that Global Horizons and the growers that contracted it violated federal laws by discouraging US resident workers from applying for jobs so that it could hire workers enrolled in the government’s “guest worker” program instead. These workers are regularly paid lower wages and are subject to an even greater level of exploitation than resident workers, which include citizens as well as legal and undocumented workers.

The guest workers in question, mostly of Thai origin, suffered even worse treatment at the hands of the company and its worldwide subcontractors; so much so that 194 guest workers who were systematically misled and defrauded by Global Horizons over the same period are now pressing a separate class action lawsuit against the company.

The Thai workers were deceived about the terms of their contract, believing they would be allowed to work in the United States for three years when in fact they

were to be sent home after one season, despite their being unable to recoup the money they paid to enter the United States.

Concurrently, 22 Thai and 3 Indonesian workers in North Carolina are also filing a lawsuit against Million Express Manpower, in both Thailand and the US, for fraud and breach of contract. So flagrant were the abuses perpetrated by Million Express that some of the workers filing suit have been given temporary visas reserved for victims of human trafficking.

These workers, who were told they would receive \$16,000 a year for three years, received only \$1,300 to \$2,400 each. As is customary (but illegal), they had their passports taken away by their employer, leaving them trapped. Some of the workers labored unpaid during the reconstruction of New Orleans, sleeping in a filthy hotel that had no lights or potable water. One of the plaintiffs reported that at times 33 workers would sleep in a storage shed behind the contractor’s house.

The Thai workers stayed in the United States under the auspices of the H-2A guest worker program, a descendant of the infamous Bracero program of the 1940s and 1950s, which brought hundreds of thousands of Mexican workers to toil in deplorable conditions while they were systematically mistreated and swindled out of wages.

Every year some 120,000 unskilled workers are brought into the US with guest worker visas. They are granted stays for up to one year, which can be extended up to three years at the behest of employers.

Although 75 percent of agricultural guest workers come from Mexico, a growing number also come from Asia as Mexican workers shift into better-paying trades such as construction and other services.

Growers in particular prefer using guest workers because, unlike resident workers, they are required to

stay with one employer - thus binding them to a certain wage or piece-rate regardless of demand. During short harvesting seasons the demand for labor can quickly spike, raising wages up to \$18 per hour or more, according to a farm owner interviewed in the *Seattle Weekly*.

As guest workers cannot renegotiate their contract, they are used to undermine the bargaining power of local workers and depress wages across the board. Further, they cannot leave their job if wages or working conditions are unacceptable, and if they raise complaints they can be sent home at any time, at catastrophic financial loss.

This semi-servitude is permissible under the law, but the systematic fraud endemic to the guest worker program only deepens this form of exploitation. In most countries (including Thailand) it is illegal, for instance, to charge fees for the provision of guest worker visas. But workers among those filing suit reported paying massive recruitment fees—some as high as \$11,000—for temporary entry into the United States.

“The workers had actually received in writing an order not to disclose the actual amount they had paid in recruitment fees,” the North Carolina workers’ attorney told National Public Radio, “They were told to lie.”

Some of the workers were forced to mortgage their family property in order to raise the money, hoping to recoup the one-time fee by working for the maximum three years allowed by the program. But, owing to the fact that they were deceived about their contracts, many workers were unable to recoup even their initial fee. Such circumstances are by no means uncommon. “I’d say a substantial majority of US guest workers experience some abuses with their paycheck,” David Griffith, a professor of anthropology at East Carolina University, told the *New York Times*.

The three lawsuits offer a great deal of insight into the dynamics of the low-skilled labor market in the United States. By some estimates, fifty to eight percent of seasonal field workers are undocumented immigrants, mostly from Latin America. They are among the most exploited sections of the workforce, provided with no health care, no reliable job prospects, and a looming threat of deportation.

But even these workers can seek another job when they are greatly mistreated or can find better pay

elsewhere. By contrast, guest workers “aren’t allowed to go anywhere,” a Yakima Valley farm owner told the *Seattle Weekly*. “They have a contract with us and we have one with them. If they leave, it’s our responsibility to inform ICE [Immigration and Customs Enforcement, formerly INS]. That’s why the guest worker program works.”



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