

5.3.4: Case Study: Judge Approves \$2.4 Million EEOC Settlement with Four Hawaii Farms for over 500 Thai Farmworkers

Laborers Kept in Debt Bondage, Housed in Unsanitary Facilities, Threatened, and Denied Adequate Food and Water, Federal Agency Charged

LOS ANGELES - U.S. District Judge Leslie E. Kobayashi in Hawaii has approved settlements between the U.S. Equal Employment Opportunity Commission (EEOC) and four Hawaii farms totaling \$2.4 million for about 500 Thai farmworker victims of national origin discrimination and retaliation, the EEOC announced today. The settlement encompasses monetary relief, options for jobs and benefits, housing, other reimbursements of expenses, and sweeping injunctive relief remedies. The four farms are Mac Farms of Hawaii, LLC [nka MF Nut Co., LLC]; Kauai Coffee Company, Inc., [nka McBryde Resources, Inc.]; Kelena Farms, Inc. and Captain Cook Coffee Company, Ltd.

The EEOC initially filed suit in U.S. District Court for the District of Hawaii in April 2011 against farm labor contractor Global Horizons and six farms in Hawaii on behalf of the Thai farmworkers. (*EEOC v. Global Horizons, Inc. d/b/a Global Horizons Manpower, Inc., Captain Cook Coffee Co., Ltd., Del Monte Fresh Produce (Hawaii), Inc., Kauai Coffee Company, Inc., Kelena Farms, Inc., Mac Farms of Hawaii, LLC, Maui Pineapple Co., et al*, Case No. CV-11-00257-LEK- RLP). One of the farms, Del Monte Fresh Produce, already settled for \$1.2 million in November 2013.

In March 2014, Judge Kobayashi ruled that Beverly Hills, Calif.-based Global Horizons was liable for the pattern or practice of harassing, discriminating against, and retaliating against hundreds of Thai farmworkers in the U.S. based on their national origin and race, in violation of federal anti-discrimination laws. The EEOC named the farms in Hawaii as defendants, asserting that they were joint employers with the labor contractor, and liable due to the acts committed by Global Horizons. Global Horizons and Maui Pineapple Company remain as the only defendants left in the case, although default judgments were entered by the court.

"We worked and lived under terrible conditions, treated like animals in a cage," said Phirom Krinsoongnoen, one of the victimized Thai farmworkers. "We were housed in an overcrowded place with a few rooms but many workers, and threatened almost daily. I am grateful that the EEOC is here to help people like me."

The EEOC alleged that Thai farmworkers were contracted through Global Horizons to work at the farms sometime between 2003 and 2007 under the H2-A temporary visa program, which required the farmworkers to be provided food and housing aside from pay for work performed. Exorbitant recruitment fees placed the Thai workers into a situation of debt bondage early on. Workers were then subjected to varying degrees of denial or delay of pay; had their movements monitored and passports confiscated; had production quotas imposed that did not apply to non-Thai workers; were denied adequate food and water; and forced into unsanitary, overcrowded living conditions. Those who complained of the pattern or practice of discrimination and harassment were retaliated against, with many forced to quit or flee as a result, the EEOC said.

"This resolution reflects this agency's redoubled effort to challenge discriminatory practices against the most vulnerable workers who often live and work in the shadows of the economy," said EEOC General Counsel David Lopez. "This case strikes a blow at one of the root causes of human trafficking - discrimination based on prohibited bases."

All this alleged conduct violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit after first attempting to reach pre-litigation settlements through its conciliation process.

As part of the four consent decrees finalized today, Mac Farms will pay \$1.6 million, Kauai Coffee will pay \$425,000, Kelena Farms will pay \$275,000 and Captain Cook Coffee will pay \$100,000 directly to the victims. As such, the total direct monetary relief recovered is \$2.4 million. In addition, Kelena Farms offered full-time jobs with generous benefits, profit-sharing & 401(k) plan options, while Captain Cook Coffee offered seasonal jobs, benefits, transportation, and housing for workers during the term of their decrees. The offers extended by Kelena and Captain Cook, valued at nearly \$4.9 million, add to the direct monetary settlements over the duration of the consent decrees. The EEOC will monitor the terms of the job offers.

Sweeping injunctive relief approved by the judge in all of these consent decrees will ensure that farms and farm labor contractors (FLCs) disseminate policies and procedures prohibiting discrimination to their local workforce and to H2-A guest workers in a language they understand; conduct audits to ensure FLC compliance with the consent decree; designate a corporate compliance officer for oversight of FLCs and Title VII compliance; train managers, supervisors, and employees on their obligations under Title VII; and report to the EEOC and maintain records.

Anna Y. Park, regional attorney for the EEOC's Los Angeles District, said, "We can now move forward with ensuring that the claimants, in this case, get justice. We also hope that the injunctive relief entered into with the farms will ensure proper hiring and monitoring of farm labor contractors in the agricultural industry. We all have a responsibility to ensure that the most vulnerable workers are not denied basic human dignity and life-sustaining water and food. Farms and farm labor contractors - and the supervisors who represent them - must ensure that their workers' civil rights remain intact, no matter their race or the country they come from."

Eliminating discriminatory policies affecting vulnerable workers who may be unaware of their rights under equal employment laws or reluctant or unable to exercise them is one of six national priorities identified by the EEOC's Strategic Enforcement Plan (SEP). These policies can include disparate pay, job segregation, harassment, and human trafficking.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on its website at www.eeoc.gov.

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