

## 5.1.4: Case Study: Hamilton Growers to Pay \$500,000 to Settle EEOC Race / National Origin Discrimination Lawsuit

### Farm Fired or Disadvantaged U.S. Workers, Especially Blacks, Federal Agency Charged

ATLANTA - Hamilton Growers, Inc., doing business as Southern Valley Fruit and Vegetable, Inc., an agricultural farm in Norman Park, Ga., has agreed to pay \$500,000 to a class of American seasonal workers - many of them African-American - who, the EEOC alleged, were subjected to discrimination based on their national origin and/or race, the agency announced today. The agreement resolves a lawsuit filed by the EEOC in September 2011.

The EEOC's suit had charged that the company unlawfully engaged in a pattern or practice of discrimination against American workers by firing virtually all American workers while retaining workers from Mexico during the 2009, 2010, and 2011 growing seasons. The agency also alleged that Hamilton Growers fired at least 16 African-American workers in 2009 based on race and/or national origin as their termination was coupled with race-based comments by a management official. Additionally, the lawsuit charged that Hamilton Growers provided lesser job opportunities to American workers by assigning them to pick vegetables in fields that had already been picked by foreign workers, which resulted in Americans earning less pay than their Mexican counterparts.

The EEOC also alleged that American workers were regularly subjected to different terms and conditions of employment, including delayed starting times and early stop times, or denied the opportunity to work at all, while Mexican workers were allowed to continue working. The settlement provides monetary relief to 19 persons who filed charges with the agency and other American workers harmed by the practices.

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

Forty of the workers intervened in the lawsuit and filed additional claims seeking relief under the Fair Labor Standards Act and Agricultural Worker Protection Act. The workers were represented by Georgia Legal Services, which worked collaboratively with the EEOC in resolving the case.

Pursuant to the consent decree settling the suit, the Hamilton Growers will exercise good faith in hiring and retaining qualified workers of American national origin and African-American workers for all farm work positions, including supervisory positions. Hamilton Growers will also implement non-discriminatory hiring measures, which include targeted recruitment and advertising, appointment of a compliance official, and training for positive equal employment opportunity management practices. The company has also pledged, among other things, to create a termination appeal process; extend rehire offers to aggrieved individuals from the 2009-2012 growing seasons; provide transportation for American workers; and limit contact between the alleged discriminating management officials and American workers. The decree also provides for posting anti-discrimination notices, record-keeping, and reporting to the EEOC.

"The EEOC will continue to protect the rights of vulnerable workers, such as the African American agricultural workers in this case, who were unlawfully terminated because of their race and national origin," said EEOC General Counsel David Lopez. "Employers must ensure that their employment practices are in line with anti-discrimination laws, especially in light of the globalization of the labor force."

Robert Dawkins, regional attorney for the agency's Atlanta District office, said, "The EEOC is pleased to have effectuated positive change in the employment practices of agricultural employers who regularly hire foreign workers under the H-2A visa program for temporary or seasonal work. Federal law protects U.S. workers against an employer's discriminatory preferences, and we are optimistic that this resolution will go a long way in discouraging employers from discriminating against workers based on race and national origin in the hiring or firing process."

According to Bernice William Kimbrough, district director for the EEOC in Atlanta, "This case brings to the forefront an issue that is increasingly affecting members of agricultural communities throughout the nation. We will continue to focus our efforts to eradicate all forms of discrimination against the American workforce."

Class member Ashley Richardson noted that job opportunities remained limited in Southwest, Georgia and stressed the importance of the opportunity to return to Hamilton Growers without facing the discrimination of prior years.

Attorney Leah Lotto of Georgia Legal Services added, "Discrimination against American workers in the H-2A guest worker program is endemic. We hope this case will bring attention to that problem and that we will see Hamilton Growers demonstrate to

its neighbors that offering job opportunities to American workers is not only legally required, but also the right thing to do for communities and local economies."

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on the agency's web site at [www.eeoc.gov](http://www.eeoc.gov). Georgia Legal Services' Farmworker Rights Division provides no-cost representation to agricultural workers in Georgia. More information about the Farmworker Rights Division is available at [www.gafr.org](http://www.gafr.org).

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