

FOR IMMEDIATE RELEASE

January 20, 2016

Contact

Jessica Felix-Romero

jromero@farmworkerjustice.org

202-800-2524

**Farmworker Justice Statement on
US Department of Labor's New Wage-Hour Guidance on "Joint Employment"**

Washington, DC- Today, Wage and Hour Division of the U.S. Department of Labor, issued guidance on enforcement of the minimum wage and other protections under the Fair Labor Standards Act of 1938 (FLSA) and the Migrant and Seasonal Agricultural Worker Protection Act of 1983 (AWPA or MSPA). The administrative interpretation focuses on "joint employment," which means a situation in which a group of workers is employed simultaneously by two or more entities that are considered to be "joint employers" and jointly responsible for complying with labor protections. The issue of joint employment is especially important in agriculture because many farm operators utilize farm labor contractors to hire and supervise farmworkers on their farms while denying that they "employ" those farmworkers. When such farmworkers are deprived of the minimum wage or other labor protections under these two laws, many farm operators attempt to evade the legal responsibilities owed by "employers." Frequently, when workers achieve legal victories, labor contractors lack the resources to pay a court judgment, leaving farmworkers without a remedy.

Farmworker Justice is pleased that the Department of Labor is addressing rampant wage-hour abuses associated with labor contracting. Bruce Goldstein, President of Farmworker Justice stated: "Too often farm operators seek to shield themselves from responsibility and to shift liability by claiming that their farmworkers are employed solely by a farm labor contractor. The Department's guidance on employment relationships emphasizes that farm operators which use farm labor contractors should not expect to escape responsibility for the unlawful treatment of farmworkers on their farms."

The agency's interpretation essentially re-states decisions of courts and previous guidance. Many courts unduly restricted the scope of the employment relationship definition, resulting in an avoidance of responsibility by employers. Nonetheless, the new guidance is a helpful step in improving wage-hour enforcement because it gives clearer guidance to employers, workers, attorneys, the Department's staff and the courts.

The FLSA requires most employers to pay a federal minimum wage. The AWPA (MSPA) requires agricultural employers to disclose and comply with job terms and regulates farm labor contractors.

###

Farmworker Justice is a nonprofit litigation, advocacy and education organization that seeks to empower migrant and seasonal farmworkers to improve wages, working conditions, immigration policy, health, occupational safety and access to justice.

For more information on wage-hour protections and enforcement by the U.S. Department of Labor, read our reports at <http://www.farmworkerjustice.org/resources/reports>: "U.S. Department of Labor Enforcement in Agriculture: More Must Be Done to Protect Farmworkers Despite Recent Improvements," and "Unfinished Harvest: The Agricultural Worker Protection Act at 30.