

FARMWORKER JUSTICE NEWS



www.farmworkerjustice.org

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SPRING 2016

IMMIGRATION UPDATE

On April 18, 2016, the Supreme Court heard oral arguments in *US v. Texas*, the case that will determine whether or not the Deferred Action for the Parents of Americans and Lawful Permanent Residents (DAPA) and expanded Deferred Action for Childhood Arrivals (DACA) initiatives will move forward. A decision by the Supreme Court is expected by the end of June. The outcome of the case is still uncertain. With a clear victory from the Supreme Court, expanded DACA could be implemented shortly after a decision, with implementation of DAPA following sometime in the fall. Other likely results would include the case being sent back to the district court in Texas, where it may continue for at least another year; or, more unlikely, a ruling that the president exceeded his authority or failed to follow proper procedure, which would be the death knell for these initiatives for the moment. Farmworker Justice has joined with other organizations to encourage the Supreme Court to recognize the president's exercise of his lawful authority, to consider the unfairness that has resulted from the lower courts' ruling, and to allow the administration to implement the administrative relief from deportation for deserving families. In addition to fighting for this modest but vital relief, we and others in the immigrants' rights movement will persevere until the 11 million undocumented immigrants in the US are provided with a path to citizenship, something only Congress can do.

Farmworker Justice continues to prepare for implementation of DAPA. We are working closely with the UFW Foundation to help build a successful *Si Se Puede* network of farmworker and farmworker-serving organizations, which will help ensure that farmworkers across the country will have information about and access to administrative relief. We continue to provide updates on labor and immigration policy to help farmworker and farmworker-serving organizations and allies stay abreast of these issues and how they affect farmworkers. We have presented to health centers, Head Start programs and parents, and farmworker job programs on potential immigration relief. We will continue to work toward the successful implementation of DAPA to ensure that this opportunity not only provides relief from deportation to eligible farmworkers and their families, but also builds the farmworker movement to achieve equality and dignity in the workplace.

Unfortunately, this Congress remains focused on negative rhetoric about immigrants and has failed to move forward with desperately needed immigration reform. While Congress is



unlikely to pass any significant legislation that affects farmworkers this year, we continue to monitor the appropriations process to ensure that harmful policy riders affecting the H-2A temporary agricultural visa program are not included in funding legislation, and we continue to provide education to policy makers. With the end of President Obama's term approaching, we have focused our attention on advocacy at the administrative agencies. We are seeking to improve the enforcement of farmworkers' labor and migration rights. Working with the UFW, we have met with Department of Labor officials on a range of labor law enforcement issues on farms. We have also worked with the UFW and the International Labor Recruitment Working Group (ILRWG) to advocate with the DOL and the Departments of State and Homeland Security to address recruitment abuses for workers on temporary visas, including the H-2A program. As the year draws to an end, we will seek to ensure strong policies and enforcement outcomes from the administration.

EQUITABLE FOOD INITIATIVE PROGRESSES – LABOR SECRETARY PEREZ VISITS



photo credit: Equitable Food Initiative

Ernie Farley, a partner at Andrew & Williamson Fresh Produce, led a 'Strawberries 101' tour for Secretary Perez and other guests at Crisalida Berry Farms. Berries from Crisalida are sold under the GoodFarms brand at Costco Wholesale.

The Equitable Food Initiative (EFI), the corporate social responsibility project that Farmworker Justice co-founded, continues to evolve to meet the needs of farmworkers, their employers, retailers and other wholesale buyers of produce, and consumers. On April 8, 2016, US Secretary of Labor Thomas E. Perez visited a large EFI-certified strawberry farm operated by Andrew & Williamson in Oxnard, California. He met with farmworkers, managers, CEOs of agricultural businesses, retailer representatives, labor union leaders, and others, including FJ's Bruce Goldstein. He praised the system, saying "Every day, EFI proves that you can turn a profit by amplifying rather than undermining worker voice."

The EFI board of directors' diverse members include the retailer Costco Wholesale; foodservice Bon Appétit Management Corp.; growers Andrew & Williamson and NatureSweet; nonprofit organizations including FJ, Oxfam America, Pesticide Action Network, Consumer Federation of America, Center for Science in the Public Interest; and farm labor unions, including the Farm Labor Organizing Committee, PCUN (Oregon's farmworker union), and the United Farm Workers. The executive director is Peter O'Driscoll.

The EFI adopted progressive standards on labor (including wages, hours, working conditions, labor contracting, occupational safety, freedom of association, and child labor), pesticide management, and food safety. Independent auditors conduct compliance reviews before a farm is issued a certification. Corporate responsibility systems audits alone, in the absence of worker empowerment, have not stopped sweatshops in other industries.

The EFI system requires, before a farm is certified, the establishment of a joint worker-manager leadership team that is trained on raising and resolving issues. Farmworkers have a major role in helping companies succeed, for which they should be recognized and compensated fairly. The EFI draws on lessons learned from companies where workers and managers have collaborated to improve productivity, profitability, wages, and working conditions. Both privately and in public with Secretary Perez, farmworkers spoke their minds freely and praised the EFI system for helping them to be treated with greater respect.

The EFI is growing. As of this writing, there were 2,864 workers employed on the nine operations certified so far (eight farms and one processing plant) in California, Canada, and Mexico. Discussions are underway with additional retailers and growers. EFI continues to seek opportunities to learn and engage with innovative growers. The EFI recently visited the greenhouse tomato operations of NatureSweet, located in Jalisco, Mexico.

In addition to co-founding the EFI, Farmworker Justice staff have played important roles in its development. Bruce Goldstein, who has been an active board member with help from his Farmworker Justice colleagues, became the EFI board's treasurer and joined the executive committee in April 2016.

LITIGATION UPDATE

Onion Workers Settle Lawsuit, Imposing Joint Employer Liability



In March, a federal judge approved a settlement of a collective action, *Villalobos v. Calandri SonRise Farms LP*, on behalf of onion workers in a lawsuit brought by California Rural Legal Assistance, attorney Santos Gomez, and Farmworker Justice. The farmworkers were employed through farm labor contractors by a large farming enterprise with operations in four counties in Southern California.

The defendants, John Calandri and Calandri SonRise Farms, will pay \$430,000 to workers based on claims for unpaid wages, recordkeeping, housing, and other violations under federal and state law. The farm owner and operator agreed to settle despite their efforts to shift all liability to the farm labor contractors. Many farmworkers suffer wage theft at the hands of farm labor contractors retained by growers who hope to keep labor costs low while escaping responsibility for unlawful conduct. Farmworker Justice has had a longstanding focus in its litigation and advocacy to hold growers jointly liable as joint employers with their labor contractors.

The settlement agreement includes compensation to workers, attorney's fees, and prospective relief. The amounts to be paid to the 121 workers in the lawsuit range from \$1,250 to \$8,000. The defendants also are paying costs of administering the settlement and attorney's fees of \$164,000. The settlement requires the defendants to include in contracts with farm labor contractors obligations to pay proper wages; keep records; provide tools and equipment; and provide drinking water, first aid kits, rest breaks, and sanitary facilities.

The case was filed in 2012 and sought relief for violations committed since 2008. Unfortunately, despite extensive efforts to communicate with affected workers, many of the victimized farmworkers could not be found to assert their claims.

Villalobos v. Calandri SonRise Farms, Case No. CV12-2615 PSG, U.S. District Court for the Central District of California.

UNIDOS: Working to Reduce the Impact of Skin Cancer in Farmworker Communities



Bristol-Myers Squibb Foundation

Specialty Care for Vulnerable Populations

Care Collaborations & Patient Support

Farmworker Justice has been awarded a two-year grant from the Bristol-Myers Squibb Foundation's Specialty Care for Vulnerable Populations® initiative to implement a community mobilization project that will promote community integration and reduce the impact of skin cancer among farmworkers and their families in Homestead, Florida, and North San Diego County, California.

The project, *Unidos Eliminando Barreras para la Prevencion de Cancer de la Piel* (United Eliminating Barriers to Skin Cancer Prevention), aims to increase cross-sector capacity to mobilize around skin cancer prevention, detection, treatment, and care with approaches that are sustainable in farmworker communities. Farmworkers and their family members face more substantial health challenges than other groups and suffer poorer average health. Their working and living conditions expose them to long hours of ultraviolet radiation and skin irritants, putting them at a higher risk of developing skin cancer.

Farmworker Justice is very pleased that the Bristol-Myers Squibb Foundation is providing this support to help address issues relating to skin cancer in farmworkers who represent a medically underserved population that is at risk for both environmental and occupational health problems.

In addition to providing access to skin cancer detection services, resulting in earlier detection of skin cancer and appropriate skin cancer treatment, this project will develop effective approaches and strategies to inform national private- and public-sector decision-makers to better respond to this important public health issue. Farmworker Justice is pleased announce our community partners for the project are California-based Vista Community Clinic and the Farmworkers Association of Florida.

KEEPING THE PRESSURE ON EPA TO PROTECT FARMWORKERS FROM PESTICIDES

At the end of last year, the EPA finalized revisions to the Worker Protection Standard (WPS). The WPS provides important protections to farmworkers to prevent acute and long-term illnesses and injuries due to pesticide exposure. Most of the new provisions will go into effect in January 2017, but some, including a requirement for employers to provide enhanced pesticide safety training for workers and pesticide handlers, do not go into effect until January 2018.

The EPA also recently proposed changes to regulations that govern the certification, training, and supervision of individuals who apply restricted use pesticides (RUPs), a regulation that hasn't been updated in more than 40 years. Changes to the certified pesticide applicator regulations are important to protect the health of pesticide applicators, farmworkers and their families, neighboring communities, and the environment from improper use of RUPs, which are – by definition – the most toxic and dangerous pesticides available. The revisions are especially important for noncertified applicators, who are often non-English speakers and are applying pesticides “under the supervision” of certified applicators. Noncertified applicators are the men, women, and youth who are the most vulnerable to occupational injury from pesticide exposure. The EPA has proposed changes that would provide much-needed protections for this vulnerable population, including increased safety training and supervision. The proposed rule also would establish a minimum age of 18 for both certified pesticide applicators and noncertified applicators. Other federal rules on child labor set the minimum age for high-hazard work at 18, and several states prohibit minors under 18 from handling pesticides. This should be a national standard for children in agriculture because children under 18 do not have the maturity to adequately prevent exposure when handling toxic chemicals, and high levels of exposure could result in lifelong health effects.

Both the Worker Protection Standard and the certified pesticide applicator regulations are critically important to protect public health and the environment in farmworker communities. Long-overdue improvements to these regulations will result in greater awareness by farmworkers of the risks they face; stronger protections from exposure; and, ultimately, fewer pesticide-related injuries, illnesses, and deaths among farmworkers and their family members.



photo credit M. Perez



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ENSURING HEALTH CARE ACCESS AND INSURANCE FOR FARMWORKERS

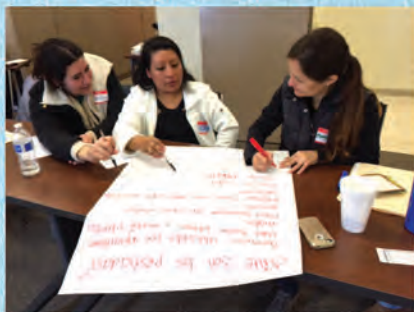
The limited data we have about farmworkers and their access to health care shows that only about one-third of farmworkers have some form of health insurance. For many of those workers, enrollment in health insurance happens throughout the year, not just during open enrollment. Migrant farmworker families, for example, may enroll multiple times during the year, especially if they have U.S. citizen children who qualify for Medicaid. H-2A workers are not able to apply for health insurance until they enter the U.S., which is often outside of open enrollment; once they arrive in the U.S., they only have 60 days to enroll in health insurance.

The barriers to enrollment are numerous. The application can be long and confusing. While farmworkers and their families are becoming more familiar with the ACA, many farmworkers are misinformed about their rights and obligations under the law, and receive conflicting information from the media, their employers, and other sources. In-person enrollment assistance can be hard to access, especially outside of open enrollment. Despite the barriers, organizations in farmworker communities across the country (community and migrant health centers, community-based organizations, and legal services organizations, among others) work throughout the year to identify, educate, and enroll eligible farmworkers and their families in health insurance.

Farmworker Justice works with these organizations to support enrollment efforts. On the federal level, we work to educate federal agencies about farmworkers' barriers to care and identify solutions to improve their access to quality health care. At the local level, we provide training and educational materials as well as facilitate partnerships between health centers, community organizations, and other enrollment entities. In the coming months, we will be working with state and local organizations to build coalitions focused on state-specific strategies to enroll H-2A workers in health insurance. We will provide expertise and resources in the form of materials and technical assistance to these coalitions, building on the work of others across the country. These partnerships will also benefit all farmworkers and facilitate efforts to connect farmworkers and their families to quality health care.

We are here to support the efforts of local and national organizations to ensure full access to health care and health insurance for farmworkers. Contact us for information about how we can support you.

IMPROVING OCCUPATIONAL SAFETY AND HEALTH IN FARWORKER COMMUNITIES THROUGH OUTREACH AND MOBILE TECHNOLOGY



Promotores de salud from Lideres Campesinas learn about pesticide safety.

Pesticide safety training is required for all workers engaged in hand labor in treated agricultural fields; however, studies on preventive steps to protect farmworkers from unsafe pesticide exposure have revealed that over half of farmworkers do not receive this training. Moreover, the training that farmworkers receive at work may not be provided in the appropriate language and often does not offer time to ask questions.

Farmworker Justice has developed and implemented a *promotores de salud* (community health workers) project that trains individuals from farmworker communities to provide education to farmworkers on pesticide safety, heat illness, field sanitation, and workers' rights. Once trained, the *promotores de salud* are well-qualified to provide this education and can do so in a language and manner that is appropriate. *Promotores de salud* from farmworker families understand how difficult it is for farmworkers to prevent injuries when they encounter unsafe working

conditions. They can answer questions and direct farmworkers to resources for more information when needed. Through this program, approximately 50 *promotores de salud* have reached over 25,000 farmworkers in the last six years. This year, Farmworker Justice has partnered with Lideres Campesinas in California to train 15 *promotores de salud* to provide this important education to over 2,700 farmworkers in Ventura County, Kern County, and the Central Coast region around Santa Maria, California.

Farmworker Justice has also partnered with Iana Simeonov, a researcher and consultant, to design and implement a text messaging program to reinforce the health and safety information the farmworker participants receive from the *promotores de salud*. For three months after enrolling in the text messaging program, farmworkers will receive messages about occupational health and local resources. The use of mobile technology also provides Farmworker Justice and partners the ability to ask farmworkers follow-up questions that help them to better understand workers' experiences with safety at work and to evaluate the program.

FARMWORKER JUSTICE'S 35TH ANNIVERSARY CELEBRATIONS

As part of Farmworker Justice's 35th anniversary celebrations, we held an award reception in Los Angeles. We would like to thank our host committee, which includes **Alfred Fraijo Jr.**, partner, Sheppard Mullin; **Arturo S. Rodriguez**, president, United Farm Workers; **María Elena Durazo**, VP, UNITE HERE; **Lalo Alcaraz**, political cartoonist and writer on Bordertown; **Gilbert Vasquez**, CEO, Vasquez & Co.; and Tony Salazar, West Coast president, McCormack Baron Salazar. We are also thankful for all of our sponsors.

Amelia Morán Ceja, co-founder and CEO of Ceja Vineyards in Napa, received the Dolores Huerta Award, and **Hugo Noé Morales**, co-founder and executive director of Radio Bilingüe, received the Winter 2016 Farmworker Justice Award.

Photo Credit: Andre Eric Photography



Dolores Huerta, Bruce Goldstein and
Amelia Morán Ceja



L to R : Arturo S. Rodriguez, President, United Farm Workers;
Dolores Huerta, President, Dolores Huerta Foundation;
Alfred Fraijo, Jr., Partner, Sheppard Mullin; Amelia Morán
Ceja, Ceja Vineyard; Bruce Goldstein, Farmworker Justice



Hugo Noé Morales and Bruce Goldstein

CONGRATULATIONS

TO OUR SPRING 2016 FARMWORKER JUSTICE AWARD RECIPIENTS:

Farmworker Justice Award: **Eliseo Medina**, former international secretary-treasurer of the Service Employees International Union (SEIU) and president of Mi Familia Vota

Shelley Davis Memorial Award: **Hector E. Sanchez**, executive director of the Labor Council for Latin America Advancement (LCLAA) and chair of the National Hispanic Leadership Agenda (NHLEA)

Farmworker Activism Award: Student Action with Farmworkers: (SAF)

FARMWORKER JUSTICE

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LOOK INSIDE TO GET THE LATEST NEWS FROM FARMWORKER JUSTICE

- Immigration Update
- Keeping Up the Pressure on EPA to Protect Farmworkers from Pesticides
- Equitable Food Initiative Progresses - Labor Secretary Perez Visits
- Improving Occupational Safety and Health in Farmworker Communities through Outreach and Mobile Technology



The National Hispanic Leadership Agenda (NHLA), a coalition of 40 of the leading national Latino civil rights and public policy organizations, provides the Hispanic community with greater visibility and influence in our country's affairs. In March, the NHLA issued its "Public Policy Agenda: A Quadrennial Blueprint for Advancing the Hispanic Community." The agenda includes recommendations of importance to farmworkers on employment rights, immigration, health, and the environment. Farmworker Justice staff contributed to the agenda. Bruce Goldstein is on the NHLA board of directors and recently was appointed co-chair of its Economic Development and Labor Committee.