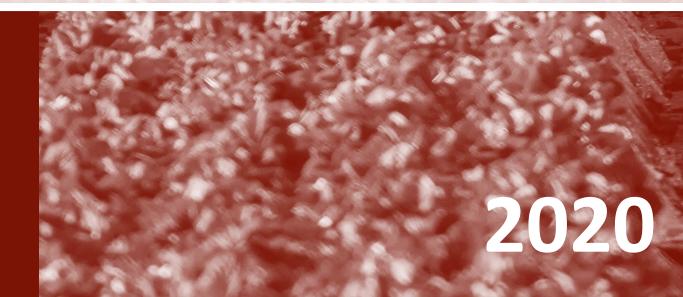




Annual Report Farmworker Justice



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Introduction

The year 2020 brought enormous challenges to the farmworker community and to those of us who assist farmworkers in their quest for a greater measure of justice. The COVID-19 pandemic affected farmworker families disproportionately and interfered with the efforts of farmworker advocates to provide assistance.

In the last year of the Trump Administration, several agencies took major steps to deprive farmworkers of basic protections on wages and occupational safety, necessitating vigorous responses that included successful litigation.

As you will read in this report, throughout the year, Farmworker Justice staff rose to the challenges and provided farmworkers with support in a variety of ways, using all the tools at our disposal.

We thank our many supporters, most of whom are listed at the end of this report, for making it possible for Farmworker Justice to serve farmworkers. We also appreciate the volunteers who took their time to help Farmworker Justice and other farmworker advocates, including those who made thousands of face masks that we helped distribute to farmworkers.

As 2020 ended, new possibilities on key policy issues arose as the Biden Administration was about to take office. In addition, advocates in several states were making progress toward improving their employment and occupational safety laws to address farmworkers' concerns.

Still, many laws and regulations currently on the books need reform. And the protections that exist on paper too often are not applied in the fields. The COVID-19 pandemic persists and farmworkers are officially "essential workers" in our economy. They deserve better. With your support, we will continue to help farmworkers fight for justice in the courts, legislatures and administrative agencies, as well as in the fields where they labor to provide us with our food.

Bruce Goldstein President





Addressing the risks of COVID-19

The farmworker community has been disproportionately affected by COVID-19. As essential workers, they have had to continue laboring in the fields even during the most severe stages of the pandemic, too often without appropriate personal protective equipment (PPE), access to handwashing stations, opportunities for social distancing, or the information needed to protect themselves. As a result, more than 500,000 agricultural workers were infected with COVID-19 according to <u>Purdue</u> University's Food and Agriculture Vulnerability Index.

FJ has been actively advocating for greater workplace protections, prioritization of farmworkers for COVID-19 vaccines, and expanded vaccine access. Since the beginning of the pandemic, we have also continued monitoring policy developments, analyzing trends, and providing information to policymakers, farmworker-serving organizations and the general public about the potential impacts of federal policy on America's agricultural workers. FJ has also leveraged media exposure, social media and our website to disseminate information about the impact more widely and help build support for policies to protect farmworkers and their families from the devastating effects of COVID-19.

Policy Monitoring, Analysis and Education on COVID-19

We have closely followed and analyzed federal policy developments in response to the pandemic and shared our expertise with policymakers and farmworker advocates. These efforts have included the analysis and publication of fact sheets on two bills introduced in the 116th Congress to address the effects of the pandemic on agricultural workers and the food supply-- Sen. Merkley's "FARM Laborers Protection Act," S. 4042, and Sen. Stabenow's "Food Supply Protection Act of 2020," S. 3840. Other similar publications analyzed the joint Centers for Disease Control (CDC) and Department of Labor Interim Guidance for agricultural employers and workers, and the Virginia Emergency Temporary Standard, the

latter of which imposed specific requirements on employers to protect their workforce from COVID-19.

Through interviews and statements to the media, we kept the public informed of the risks posed by COVID-19 to farmworker communities and the state of the Administration's response. Our media outreach included participation in a *COVID Calls* <u>podcast</u> focusing on COVID-19, food and agriculture, which highlighted the risks faced by farmworkers and their



families and the urgent need for workplace protections. Our Director of Health Policy and Programs, Alexis Guild, was interviewed for an <u>article</u> in the New York Times on the prioritization of farmworkers for the COVID-19 vaccine in California. We similarly <u>informed</u> the public and the media about the misguided Memorandum of Understanding between USDA and the Food and Drug Administration to keep farms and packing houses running without requiring any measures to safeguard workers, endangering not just their health, but also the country's food supply. In total, FJ was mentioned or quoted in 316 news articles on COVID-19 and farmworkers in 2020.

As part of our efforts to keep farmworker advocates and health professionals informed of evolving government policy regarding COVID-19 in the workplace, we published an <u>Issue Brief</u> on *COVID-19 Paid Sick Leave Protections for Agricultural Workers*, which analyzed state and federal regulations concerning the availability of paid sick leave for workers who became ill or had to quarantine due to COVID-19. FJ also took part in the American Public Health Association (APHA) Conference in October with a presentation on *Protecting Farmworkers During COVID-19*, which discussed the disproportionate risks faced by farmworkers due to their working and living conditions, as well as their challenges accessing healthcare and the role of community health centers in addressing these issues.

In addition, we created a COVID-19 resources webpage with links to the latest state guidance and regulations for the prevention of COVID-19 in agricultural workplaces, general federal COVID-19 guidance, FJ policy statements, and informational resources for farmworkers and farmworker-serving We also collaborated organizations. with Environmental Working Group (EWG) in a review of state COVID-19 protections for farmworkers, and assisted the organization in gathering information on COVID-19 outbreaks among farmworkers for the creation of an interactive map illustrating the heightened risk of COVID-19 facing farmworker communities.

We created a COVID-19 webpage with links to the latest state guidance for the prevention of COVID-19 in agricultural workplaces. Early in the pandemic, we worked with the Farmworker Health Network (National Association of Community Health Centers, Health Outreach Partners, MHP Salud, Migrant Clinician's Network, and the National Center for Farmworker Health), to create a five-issue COVID-19 <u>newsletter</u> that shared timely information with migrant and community health centers regarding available educational resources on COVID-19, as well as training and technical assistance opportunities to help health providers support farmworkers at the beginning of the pandemic.

Advocacy for COVID-19 Legislation

In April, FJ's Director of Health Policy and Programs, Alexis Guild, joined colleagues from the Environmental Working Group for a <u>press call</u> in support of Rep. Ro Khanna and Sen. Elizabeth Warren's Essential Workers Bill of Rights, which aimed to provide essential workers with health and safety protections, hazard pay, a livable wage, universal access to paid sick and family leave, and access to health care regardless of insurance or immigration status. We also called on Congress to use Commodity Credit Corporation (CCC) funds to ensure that COVIDprevention measures, testing access and premium pay were implemented in order to protect the health and well-being of farmworkers during the pandemic. Consistent with this effort, we also supported Senator Jeff Merkley's Frontline At-Risk Manual (FARM) Laborers Protection Act, which contained provisions to ensure farmworkers' access to paid sick leave and premium pay, as well as the pandemic implementation of CDC recommendations on sanitation and social distancing in agricultural workplaces. Other provisions in the bill would have provided grants to agricultural producers to help them comply with the legislation's requirements.

Advocacy on Administration Policy Regarding COVID-19 Protections and Access to Health Care

As we identify common trends and needs in the farmworker advocacy field, we continually brainstorm how best to solve these complex challenges. By bringing together advocates within the farmworker community, we have been able to



magnify our collective power. For example, when the COVID-19 pandemic broke out and we realized farmworkers were particularly vulnerable to the virus, we convened a working group to identify ways to protect H-2A workers during the pandemic. In March, shortly after the beginning of the COVID-19 pandemic in the U.S., FJ and a coalition of advocacy organizations representing rural communities sent a <u>letter</u> to then-President Donald Trump and U.S. Secretary of Health and Human Services Alex Azar enumerating a series of recommendations to increase the capacity, availability of medical supplies and funding for rural health facilities, which were already struggling before the onset of the public health emergency.

FJ also issued a statement opposing the decision by the U.S Departments of Agriculture (USDA) and Homeland Security (DHS) in the early stages of the pandemic to give growers greater flexibility to hire agricultural guestworkers on H-2A visas without setting any requirements to protect workers' health. The H-2A visa program is rife with abuse, and allowing employers to bring in guestworkers in the conditions typically endured by H-2A created dangerous conditions that increased their vulnerability, and resulted in multiple outbreaks among H-2A workers. We called attention to also the Trump administration's decision to continue processing H-2A agricultural worker visas even as it suspended immigration in response to the spread of COVID-19.



To address the risks of COVID-19 to agricultural workers, FJ and 37 other advocacy organizations also sent a letter to the Departments of State, Labor and Homeland Security urging them to use their existing legal authority to require growers employing agricultural guestworkers under the H-2A visa program to implement protections to prevent the spread of COVID-19. The recommendations in the letter were made in response to the Administration's decision to continue allowing employers to bring in guestworkers without adequate safeguards. Although administration the Trump rejected those recommendations, FJ continued advocating for increased worker safety, urging the Occupational Safety and Health Administration (OSHA) to adopt an Emergency Temporary Standard (ETS) requiring agricultural employers to take mandatory steps to prevent the spread of COVID-19 in the workplace. The process is ongoing.

At the state level, we <u>weighed in</u> on the California Occupational Safety and Health Standards Board's

FJ advocated for OSHA to adopt an emergency temporary standard (ETS) for COVID-19 prevention in the workplace.

(Cal/OSHA) COVID ETS then under consideration. Those emergency standards came into force in December 2020. FJ also submitted comments to Oregon OSHA concerning their COVID-19 Emergency Regulation Relating to Field Sanitation and Agricultural Labor Housing and Related Facilities, as well as to the state of Washington on its Emergency COVID-19 Rules for Temporary Agricultural Worker



Housing. FJ's comments supported the implementation of the regulations, recommending strong workplace and housing requirements.

FJ has also sought to ensure equitable access for farmworkers to COVID-19 vaccines by, among other things, submitting <u>written comments</u> to the National Academies of Sciences, Engineering, and Medicine on the *Draft Preliminary Framework for Equitable Allocation of a COVID-19 Vaccine*. Together with Migrant Clinicians Network, we also submitted <u>comments</u> to the CDC on the agency's recommendations for vaccine allocation, requesting that farmworkers be included with other essential workers in one of the high priority groups.

Partnering to Support Farmworkers during the COVID Pandemic

Collaboration has always been essential to the work we do. In an effort to support the farmworker community, we partnered with the Aunties' Sewing Squad—a group of generous volunteers who sewed and donated face masks—in our <u>Soy Indispensable</u> ("I'm Indispensable") initiative to make face masks available to farmworkers free of cost. Thanks to the Aunties, and to generous donations from apparel company Mad Engine and Jesus Malverde Gonzalez, President and Co-founder of Sonus Agency, over 50,000 masks had been distributed to farmworkers by the end of 2020. We recognize the invaluable help of the following community partners in distributing the masks to farmworkers: California Rural Legal Assistance, Campesinos Sin Fronteras, Centro Binacional para el Desarrollo Indígena Oaxaqueño (CBDIO), Community to Community Development (C2C), Farmworker Association of Florida, Líderes Campesinas, LUPE, National Migrant and Seasonal Head Start Collaboration Office, and Pineros y Campesinos Unidos del Noroeste (PCUN).

FJ also conducted a community assessment with primary care associations (PCAs), migrant health centers, legal aid services, and community-based organizations to identify COVID-related needs and gaps in information among agricultural worker communities. This assessment was both quantitative and qualitative and involved a survey and a series of in-depth interviews with identified stakeholders. The results helped inform the development of our COVID-19 resources for agricultural workers and were provided to the Bureau of Primary Health Care (BPHC).

Sexual Violence and Harassment Prevention

Farmworker Justice worked with Líderes Campesinas de California—a network of women farmworker leaders based in California—to build capacity and educate farmworker community members on how to prevent and address sexual harassment and violence in the workplace. Together, we produced the short film <u>Breaking the Silence</u> (Rompiendo el Silencio) and a companion Discussion Guide and Fotonovela to serve as resources for community-based organizations that work with agricultural workers to address sexual harassment



and violence on the nation's farms. The film directed by Bel Hernandez and produced by Miguel Torres, Enrique Castillo and FJ's Director of Development David Damian Figueroa—is available in Spanish, Spanish with English subtitles, and Mixteco. The actors are actual farmworkers.

FJ and Líderes Campesinas hosted presentations of the film and its companion materials in September, during which attendees representing multiple advocacy and community organizations heard from the actors, director and others involved in its production. The presentations—which were done in English, Spanish and Mixteco—raise awareness about the issue of sexual harassment and violence against agricultural worker women, and provides information about the ways that organizations can use the film and other materials in their training and outreach activities. The film and training materials are available on our <u>website</u>.



Labor Rights and Immigration Policy

Education and Coalition Building

Throughout 2020, FJ continued to engage in its critical policy monitoring, analysis, and education work. As a national organization based in Washington, D.C., FJ is well positioned to provide resources to farmworker-serving organizations from across the country and to bring these groups together to address complex challenges. We have used this position well over the past year.

FJ has continued to maintain the widely-used "FJLaw Listserv," which provides a forum for advocates from across the country to share updates, celebrate legal victories, post job openings, advertise training sessions, ask questions, and identify common trends. The listserv was vital at the start of the COVID-19 pandemic, as we rushed to meet the urgent needs of farmworkers on the front lines. The listserv is also where we share our monthly updates. These updates include information about particularly significant litigation, progress on relevant legislation, changes in administrative rulemaking, and new research on farmworker conditions. The monthly updates help busy legal service providers and farmworker organizers stay up-to-date on important legal and health developments.

We also take an active role in several coalitions, including <u>Migration That Works</u>, which works to develop a labor migration model that protects the dignity and rights of workers and their families; Coming Clean, which fights to ban toxic chemicals, including pesticides; the <u>Equitable Food Initiative</u>, which brings growers, workers, and advocates together to build a more transparent and fair food supply chain; and the <u>Immigration Hub</u>, which helps advance a fair and just immigration system. We further serve the farmworker advocacy community by organizing and participating in various national conferences. Most significantly, FJ hosted the <u>2020 New Advocates Training</u> for new farmworker-serving lawyers and paralegals. Despite the pandemic and the challenges it created, we shifted our programming online and developed a new approach to legal advocacy training. We knew that as

Through our New Advocates Training, hundreds of new attorneys received training on strategies to protect worker health and safety.

farmworkers' safety and wellbeing were being threatened in unprecedented ways, the need for strong, capable, and qualified advocates was greater than ever. Through the New Advocates Training, hundreds of new attorneys received training on the Agricultural Worker Protection Act, the Fair Labor Standards Act, the H-2A program, tactics for winning a discrimination case, and creative methods for protecting worker health and safety. FJ has also participated in various panel discussions to further advance the voices of farmworkers. In September, 2020, Bruce Goldstein spoke at the "Building a Just Recovery: Workers' Views on the Postpandemic Economy," which was part of the Mary Robinson Speaker Series, with the Business & Human Rights Resource Center.



As the world moved increasingly online last year, FJ increased its online and social media reach in order to better educate the public and build support for our advocacy efforts. For example, we created an interactive map where users may view laws and regulations related to farmworkers' workers compensation rights, overtime pay, and minimum wage guarantees across the country. The map provides a powerful visual display of the inadequacy of farmworker-protection laws in states across the country. It also provides a helpful resource for litigators, policy advocates, and researchers to compare farmworker protection by state.

Finally, we issued several publications on key immigration and labor policies affecting farmworkers' lives. For example, in 2020, we published the report *Congress and the Administration Must Not Cut*

Farmworkers' Wages in the H-2A Guestworker Program, analyzing proposed wage cuts and the economic impact these would have on farmworkers. We also released a fact sheet on Representative Yoho's (R-MN) guestworker bill, which would have significantly reduced H-2A program protections and created an additional exploitative program. In addition, we published documents helping clarify complicated administrative and executive actions, including an explanation of the H-2A program, a DOĽs statement on the "Joint Employer" interpretation, and a summary of the Trump administration's "Public Charge" final rule. By sharing these resources on our website, FJ helped ensure broader public understanding of the many laws and policies that affect farmworker communities and our collective wellbeing.

Legislative Advocacy

Given the divided House and Senate in 2020, legislative movement was slow. Nonetheless, FJ continued with its advocacy on the Hill by meeting with Representatives and Senators from key agriculture states and establishing ourselves as experts on farmworker issues. These relationships have served us well in the new Congress. In just the first few months in 2021, the House has already passed the Farm Workforce Modernization Act with bipartisan support. Meanwhile, President Biden has made immigration reform one of his central priorities and Senator Padilla (D-CA) has introduced a bill to create a pathway to citizenship for essential workers, including farmworkers. On the labor front, Representative Grijalva (D-AZ) reintroduced the Fairness for Farmworkers bill, which would remove farmworker exclusions from the Fair Standards Labor Act. Legislators in both the House and Senate have introduced companion heat stress bills, which would require OSHA to implement standards protecting outdoor workers from dangerous heat. FJ will continue to build on our 2020 legislative advocacy to win transformative change for farmworkers.



Administrative Advocacy

Administrative advocacy has always been central to FJ's work. By forming relationships with staff within key federal agencies, sending letters to department leadership, and submitting comments in response to proposed regulatory changes, FJ has ensured that farmworker voices and needs are always part of the conversation. In 2020, FJ continued this successful work.

We opposed DOL's new definition of "independent contractor." The agency cited our comments when it withdrew the rule.

For example, in the fall of 2020, the Trump Administration's Department of Labor (DOL) published a notice of proposed rulemaking in the Federal Register, announcing its plan to broaden the definition of "independent contractor" within the Fair Labor Standards Act (FLSA). The new definition would have excluded countless workers from the Act's employee labor protections. FJ submitted a comment in opposition to the proposed change. Although DOL issued its final rule adopting the proposed new definition on January 7, 2021, it later delayed the rule's implementation and sought comments on the possibility of withdrawing the rule before it took effect. We submitted new comments in support of the withdrawal, which DOL quoted in its final decision withdrawing the rule and returning to the previous definition of "independent contractor" in spring of 2021. This was a victory for millions of American workers, who will continue to receive the FLSA's worker protections.

FJ also took immediate action after the 2020 Presidential election. In preparation for the changing administration, FJ began meeting with the Biden administration transition team and advocating for much-needed policy changes to protect farmworkers. We met with leadership to discuss agency priorities in the incoming Department of Labor, United States Department of Agriculture, Environmental Protection Agency, and Department of Health and Human Services. In addition, we submitted a letter calling on

the Department of Labor to improve H-2A provisions to protect both U.S. workers and H-2A guestworkers, to issue heat safety standards to ensure workers are protected from dangerous heat, and to step up its enforcement efforts in order to address systematic labor abuses across agriculture. Our letter to the United States Department of Agriculture transition staff urged the agency to resume the National Agricultural Statistics Service's Farm Labor Survey and Farm Labor Report as necessary for protecting farmworker wages. It also asked the agency to implement a strong and meaningful procurement rule with a significant enforcement mechanism to require compliance with existing labor law as a prerequisite to awarding contracts. We asked the Environmental Protection Agency to take immediate action to protect farmworker communities from toxic pesticides by banning the highly toxic pesticide, chlorpyrifos; ensuring language access by requiring bilingual pesticide labels; create an Environmental Justice team; and defend and enforce the Worker Protection Standard. In a letter directed at White House leadership, we listed our highest priorities, including legislatively-created immigration reform,



farmworker-protective labor legislation to remove farmworker exclusions from the FLSA, and repeal of the Trump administration's Public Charge Rule. Just a few months into the Biden Presidency, we have already seen the administration adopt many of our recommendations. On his first day of office, President Biden introduced his bold U.S. Citizenship Act of 2021, which would create a pathway to citizenship for the nation's estimated 1.5 million undocumented farmworkers. Meanwhile, OSHA has just announced that it will begin consideration of a heat stress standard.



Litigation

Immigration

At least one half of all farmworkers in the United States are either undocumented or working in the country on H-2A temporary agriculture nonimmigrant visas. These workers are made vulnerable to increased exploitation and abuse at the worksite and have limited access to services and aid. As a result, FJ prioritizes advocacy to protect immigrant workers and their families. Given the Trump administration's racist attacks on immigrant communities, much of FJ's work in 2020 focused on playing defense to xenophobic rules and policies.

One such rule was the Department of Homeland Security's (DHS) Inadmissibility on Public Charge Grounds (the "Public Charge rule"), published in the Federal Register on August 14, 2019. Under the Immigration and Nationality Act (INA), the government may deny any application for Lawful Permanent Resident (LPR) status if the applicant "is likely at any time to become a public charge." DHS's 2019 Public Charge rule would have broadened the definition of "public charge" and changed the factors relevant for determining whether a person was "likely" to become a public charge. These changes would have dramatically expanded the group of people who would be denied LPR status on public charge grounds and would have created additional fear in the immigrant community. Undocumented immigrants--and undocumented farmworkers in particular--already suffer from limited access to health care and social services. By making use of those services detrimental to an individual's future LPR application, the rule would have discouraged immigrants from seeking much-needed care and assistance.



Two days after the final Public Charge rule was published, FJ and other immigrant-serving organizations filed a complaint in federal court. We successfully litigated the case throughout 2020. In a separate, parallel case, the United States Court of Appeals for the Ninth Circuit upheld a local preliminary injunction, temporarily barring DHS from implementing the Public Charge rule in the Northern District of California and the Eastern District of Washington.

After the Biden Administration took office, DHS dropped its appeal to the Supreme Court in one of the pending public charge cases. On March 15, it published a notice in the Federal Register vacating the rule.

Labor Rights

In 2020, FJ used litigation to successfully protect the wages, working conditions, and legal protections of farmworkers. Most significantly, FJ won substantial victories in two related cases challenging the Trump Administration's efforts to cut wages under the H-2A program. These cases began in the fall of 2020, when the United States Department of Agriculture (USDA) announced that it would terminate the Farm Labor Survey (FLS). The FLS collects and aggregates information on important data related to farmworkers, including their employment, hours, and wages. It is used by several state and federal agencies, nonprofits, and advocacy groups to serve and protect farmworker communities. Of particular importance is its use as the basis for calculating the Adverse Effect Wage Rate--the primary floor for wages for H-2A workers and domestic farmworkers hired by growers who participate in the H-2A visa program. Despite widespread reliance on the FLS, USDA published a one page notice in the federal register on September 30, 2020 announcing that it would suspend the survey and the corresponding report.

FJ won substantial victories in two cases challenging the Trump administration's efforts to cut wages for H-2A workers.

FJ, along with Wilmer Hale, filed a complaint on behalf of United Farm Workers and United Farm Worker Foundation challenging USDA's decision. We argued that the suspension was arbitrary and capricious in violation of the Administrative Procedures Act and that it would cause irreparable harm to farmworker communities. On October 28, 2020, Judge Drozd agreed and issued a temporary restraining order and preliminary injunction ordering USDA to reinstate the FLS and move forward with publishing the Farm Labor Report. USDA subsequently moved for the court to dissolve the order, which Judge Drozd denied on November 25, 2020. USDA then filed an appeal of the court's ruling to the Ninth Circuit, but later acknowledged that the issue was moot because the agency would be complying with the court's ruling. It released the FLS on February 11, 2021.

Meanwhile, shortly after Judge Drozd's initial ruling, the Department of Labor (DOL) published a final rule in the Federal Register announcing that it would change the methodology for calculating the AEWR. Under the new rule, the AEWR would be frozen at 2020 levels for two years before being adjusted based on the Employment Cost Index, which does not include farm or agricultural workers in its data collection. According to DOL, the proposed change in methodology would have cost farmworkers at least \$1.6 billion in lower wages over the next ten years.

We brought a new, related case before Judge Drozd challenging DOL's rule. Judge Drozd agreed with our argument that DOL had violated the Administrative Procedures Act and granted our motion for a preliminary injunction ordering DOL to revert back to the previous methodology. The AEWR was published in February 2021. Wages have gone up for farmworkers in every state in the country as a result. FJ continues to litigation remaining issues of back pay and enforcement.

In addition to directly litigating cases, FJ also filed amicus curiae briefs in cases affecting farmworker

rights. In November 2020, the Washington State Supreme Court issued a ruling in *Martinez Cueva v. DeRuyter Bros. Dairy*, holding that the exclusion of farmworkers from overtime protections violated the Washington State Constitution. A concurring opinion by Justice González adopted the equal protection reasoning that we argued in our brief, submitted in 2019.

We additionally filed a brief in Dario Martinez-Gonzalez v. Elkhorn Packing Co., in which the Ninth Circuit has been asked to review a District Court ruling that an arbitration agreement in a farmworker contract was invalid. In that case, an H-2A guest worker brought a claim against his former employer, alleging wage theft and other labor violations. Before the court was able to reach the merits of his claim, the defendant-growers sought to have the case thrown out of federal court because the plaintiff had signed an arbitration agreement. The District Court found that the agreement was invalid--and the litigation could therefore continue in federal court--because the plaintiff had been subject to economic duress and undue influence when he signed the agreement. The defendants appealed. FJ submitted an amicus brief in support of the H-2A guest worker plaintiff. The brief outlined the history of farmworker employment laws and agricultural guestworker programs to demonstrate the power imbalance that exists between workers and their employers. We specifically focused on the H-2A program and provided evidence of the harsh realities for U.S. and foreign workers that make exploitation common. The Ninth Circuit heard oral argument on February 1, 2021, but has yet to rule on the case.

Finally, FJ joined onto an amicus curiae brief with partner organizations in *Cedar Point v. Hassid*, a case

heard by the Supreme Court that threatens to undermine unions' ability to access employer property for the purpose of organizing workers. The case stems from a 1975 California law that established the Agricultural Labor Relations Board, which later issued regulations allowing union organizers to enter agricultural worksites under a narrow set of conditions. The California Supreme Court upheld the regulation as constitutionally valid in 1976. Nonetheless, two growers brought a new constitutional challenge to the regulation in 2015, claiming that the access provision violated their Fifth Amendment rights. In making these claims, the growers suggested an unprecedented new approach to interpreting the takings clause. The Ninth Circuit rejected the plaintiffs' arguments and the growers appealed to the Supreme Court.

FJ submitted an amicus curiae brief with partner organization identifying the unique conditions faced by farmworkers, including isolated workplaces, rural living conditions, language barriers, and the seasonal nature of the work. These conditions make it harder for workers to organize, thereby necessitating specific regulations to protect workers' rights. The Supreme Court heard oral argument in the case on March 22, 2021.





Health

n addition to addressing COVID-19, we continued our work with migrant and community health centers, health advocates, and a variety of community-based and farmworker organizations to increase health center capacity to serve the needs of agricultural workers, expand access to health care, and provide health information to farmworkers and the organizations that serve them.

Training and Technical Assistance to Improve Health Outcomes

Farmworker Justice, as a National Training and Technical Assistance Partner (NTTAP) with the Health Resources and Services Administration, supports health care access for agricultural workers. We organized and co-hosted educational activities aimed at a wide audience of health and legal services providers, farmworker-serving organizations and community-based organizations. In 2020, we held a series of workshops on issues such as diabetes prevention among migrant and seasonal agricultural worker (MSAW) families—co-hosted with School-Based Health Alliance (SBHA) and Health Outreach Partners (HOP)—and addressing challenges faced by health centers serving agricultural workers, the latter in collaboration with HOP, MHP Salud, and Migrant Clinicians Network (MCN).

Our virtual education and outreach activities included a Diabetes National Learning Series webinar entitled Diabetes Continuum of Care: Bridging the Health Literacy Gap to Improve Diabetes Outcomes, cohosted with HOP and the National Center for Equitable Care for Elders. FJ also offered a webinar focused on Medical-Legal Partnerships: Practices and Strategies in Agricultural Worker Communities, presented with the National Center for Medical-Legal Partnership and featuring the Monterey County MLP. In addition, we held a webinar on Emergency Preparedness: Addressing the Threat of Natural Disasters in Farmworker Communities featuring Vista Community Clinic and Episcopal Farmworker Ministry, where we discussed the roles and strategies used by community-based organizations to help farmworkers address the risks and effects of natural disasters affecting their communities. Furthermore, FJ partnered with the <u>SDOH Academy</u>, a collaboration of NTTAP organizations, to offer a series of virtual workshops to help build capacity among community and migrant health centers, primary care associations (PCAs) and health center-controlled networks (HCCNs) to address social determinants of health (SDOH) to serve underserved and vulnerable patient populations.

Health education and policy publications

Our training and technical assistance work was complemented by multiple publications addressing farmworker health issues and important developments in health policy. We published a Medical-Legal Partnership Guide for Agricultural Worker-Serving Organizations offering insights and best practices for the establishment of partnerships between community health centers and legal services organizations to address unmet legal needs of agricultural workers. Meanwhile, our Spring 2020 Health Policy Bulletin focused on behavioral health issues affecting the farmworker community, including a policy update on the expansion of access to teletherapy in rural areas and a summary of recent research on behavioral health.

FJ and the Farmworker Health Network (FHN) issued <u>Key Resources for Agricultural Worker Health</u>, a compendium of resources to support agricultural

worker health. To help farmworker families instill healthy nutritional habits in their children we published <u>Cooking in the Colors of the Rainbow</u>, a coloring book for children showing how preparing balanced meals can be a fun family activity. This publication is part of a broader effort to address the incidence of obesity and diabetes risks among farmworkers' children.



Advocacy and Education on Health Care Access

Farmworker Justice is a strong advocate for improving access to health care for farmworkers and rural communities. In that role, we submitted comments to the Centers for Medicare and Medicaid Services (CMS) regarding the Patient Protection and Affordable Care Act Notices of Benefit and Payment Parameters for 2021 and 2022, in March and December 2020 respectively. The comments encouraged CMS to preserve the user fee for health insurance issuers, which provides resources for outreach and education, and opposed the privatization of the marketplaces, including the use of direct enrollment entities. Furthermore, FJ participated in the Western Forum for Migrant and Community Health, presenting a *Policy Update to Inform Agricultural Worker Patients and Ensure Health Care Access*, together with the California Primary Care Association.

During the Biden Administration transition, FJ shared with transition team staff for Health and Human

Services our priorities for the Biden Administration. These priorities included: expanding outreach and resources under the Affordable Care Act; expanding, improving, and utilizing research on farmworker health status and access to health care; prioritizing farmworkers in COVID-19 strategy; and supporting increased and sustained funding for community and migrant health centers.

Occupational Safety and Health

Along with EarthJustice, FJ is representing several farmworker advocacy organizations in a case challenging the Environmental Protection Agency's (EPA) decision to weaken critical protections that help keep farmworker communities safe from pesticide drift. In 2015, after collecting copious evidence that pesticide drift threatens the safety and health of farmworkers and their communities, the EPA promulgated the Application Exclusion Zone (AEZ) as part of the Worker Protection Standard (WPS) to protect against toxic pesticides. Despite the overwhelming evidence that the AEZ was vitally important for rural communities' wellbeing, the EPA weakened these protections when it published a final rule revising the AEZ on October 30, 2020. The new

rule makes it easier for growers to spray pesticides that might drift into nearby fields, schools, and neighborhoods without requiring that sprayers take the necessary precautions to protect local communities. We challenged the new rule based on the EPA's failure to provide any evidence justifying its decision.

On December 28, 2020, Judge Limen agreed with us and issued a Temporary Restraining Order against the rule, halting its implementation just hours before it was set to go into effect. He then extended the restraining order to January 22, 2021. A hearing on our request for a preliminary injunction was scheduled for January 21, 2021, but the court later postponed the hearing and



entered a preliminary injunction enjoining the EPA from putting the rule into effect.

Our occupational health work also includes education and outreach. For example, President Bruce Goldstein and Director of Economic and Environmental Justice Iris Figueroa presented at a webinar hosted by the Interfaith Center on Corporate Responsibility, titled *Impacts on the Farmworker Community from Pesticide Exposure*. And our <u>Clinician's</u> <u>Guide to the Worker Protection Standard</u>, published with the Migrant Clinician's Network, explained the requirements outlined in the central regulation protecting workers from pesticide exposure.

Organizational Development and Outreach

Special Events and Outreach

The beginning of the COVID-19 pandemic brought new challenges to America's farmworkers. We sought to educate policymakers and the public about the situation faced by these essential workers during our virtual interview series, The State of Farmworkers in the COVID-19 Era. This 17-episode series featured interviews with farmworker advocates-including civil rights icon Dolores Huerta-as well as nonprofit organization leaders and policymakers, who spoke about the unprecedented crisis affecting farmworkers and the need for a better response on the part of government and the agriculture industry. The series was broadcast on FJ's Facebook page and is also available on our YouTube Channel.

Our development and outreach capacity expanded in 2020 with the creation of a new volunteer Advisory Council. The 16-member Council consists of prominent FJ supporters with a track record of leadership and commitment to supporting the farmworker community. The Advisory Council provides FJ with valuable expertise, outreach assistance and development support.

We enhanced our communications and outreach capabilities with the launch of a new website in the summer of 2020. The new site, which is more user-

friendly and visually compelling, is continuously updated with FJ publications, blogs, events, and media outreach materials. Through our <u>blog</u>, we provide monthly updates on policy developments at the federal and state levels, as well as other news and information of interest to farmworker advocates. Our new website and its design firm, Revolution Interactive, were recognized by the Academy of Interactive and Visual Arts (AIVA) with a Gold Award in the *Websites—Activism* category of the <u>Davey</u> Awards. Our website was also recognized with a Gold Award in the category *General Websites—Activism* of the W3 Awards.

> Our virtual interview series, The State of Farmworkers in the COVID-19 Era, addressed the crisis affecting farmworkers.



The <u>2020 Farmworker Justice National Awards</u> honored community leaders and artists who have a distinguished record of supporting the nation's farmworkers. This 2020 awards honored writer, producer and activist Ellen Gavin; arts and entertainment attorney Brooke Oliver; photographer George Rodriguez; attorney, activist and philanthropist Antonia Hernandez; journalist Maria Elena Salinas; Grammy Awardwinning recording artist Linda Ronstadt; and Mayor of the City of Coachella Steven Hernandez. In conjunction with the National Awards, we also held an online auction with pieces by multiple artists to raise funds for our programs.

Social Media and Celebrity Support

Our social media outreach expanded in 2020, with a greater variety of content such as educational materials and videos being shared with FJs followers. We have consistently used social media platforms to inform our followers about news and policy developments that are relevant to farmworkers, advocates, and supporters. In addition, we launched

a new <u>YouTube channel</u> to share videos of events, interviews, webinars, and outreach activities. In December, renowned actress, director and producer Eva Longoria Bastón, who is a long-time advocate for farmworkers and a friend of FJ, recorded a heartfelt <u>holiday message</u> to be shared on our social media channels honoring the farmworkers who feed America.

Corporate Support and Collaborations

Our work to improve farmworker's living and working conditions has attracted the support of artists and corporations who have donated time and resources to advance the cause of farmworker rights. Louis Verdad, a Los Angeles-based fashion designer with a strong commitment to social justice, generously donated his time to design and produce the Farmworker Justice <u>face</u> <u>mask</u>, which has been an important component of our online fundraising efforts.

Our <u>Soy Indispensable</u> ("I'm Indispensable") initiative, carried out with the invaluable help and donations of the Aunties' Sewing Squad volunteers, also received support from energy foods company Clif Bar, apparel company Mad Engine, and President and Co-Founder of Sonus Agency, Jesus Malverde Gonzalez. Thanks to the generosity of these volunteers and donors, over 50,000 face masks were provided to farmworkers free of charge.

Financial Statements

STATEMENTS OF FINANCIAL POSITION AS OF DECEMBER 31, 2020

ASSETS		
CURRENT ASSESTS		
Cash and cash equivalents	\$	1,102,436
Grants and contracts receivable		371,579
Pledges receivable		58,795
Inventory		1,920
Prepaid expenses		16,150
Total current assets	-	1,550,880
OTHER ASSETS		
Deposits		2,310
Total Assets	\$	1,553,190
LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES		
Total current liabilities	-	174,734
NET ASSETS		
Total net assets	-	1,378,456
TOTAL LIABILITIES AND NET ASSETS	\$	1,553,190

STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS FOR THE YEAR ENDED DECEMBER 31, 2020

REVENUE	
Federal grant revenue	498,169
Grants and contributions	1,325,175
Contracts	78,245
Interest income	683
Other revenue	 499
Total revenue	\$ 1,902,771
Program Services	 820,164
EXPENSES	
Core Operations and Administrative	181,861
Fundraising	141,002
Total Expenses	\$ 1,143,027
Change in net assets	 943,344
Net assets at beginning of year	 435,112
NET ASSETS AT END OF YEAR	\$ 1,378,456

Thank You to Our Donors

Foundation and Corporate

Grants and SubGrants Anonymous Donors Bigglesworth Family Foundation Bristol Myers Squibb Community Catalyst, Inc. Evelyn & Walter Haas Jr. Fund NEO Philanthropy, Inc. Rosenberg Foundation The California Endowment

Government Grants and SubContracts

Health Resources and Services Administration (HRSA) National Center for Farmworker Health PROCEED, Inc.

Trailblazers of Justice

Chris & Melody Malachowsky Family Fund Clif Bar Company EarthJustice FJC, A Fdn. of Philanthropic Funds Mark & Susan Stutzman

Innovators and Leaders of Justice

Alison Thomas California Community Foundation **Environmental Working** Group Gavin/White Empowerment Fund JAG Molina Family Fdn. Joel Davis Jules Bernstein & Linda Lipsett Lois Isenman Marc Fomm & Beth Sperry Marler & Clark, LLP PS **RSF Social Finance** SoCalGas The Joshua Mailman Foundation

Valerie A. Wilk, in memory of James Strothmann Weingart Foundation WWW Foundation

Social Justice Advocates

Andrew & Williamson Bruce Goldstein & Robin Talbert David Damian Figueroa Int'l Union of Painters & Allied Trades Kaiser South Bay HCPA Sean Flynn Steven Colbert American Dream Fund The Chestnut School of Herbal Medicine The Shimkin Foundation

Harvester of Justice

AFOP Andrea Miller Assn. of Farmworker **Opportunity Programs** Cynthia Currin & Glenn Solomon Garret Swart & Indiana Strmborn Irving & Constance Phillips Charitable Laurie B. Davis & Joseph M. Sellers Linda Aarness Matthew Keifer Million Dollar Baby Co. **Rosemary Sokas** The California Endowment The Ester & Morton Wohlgemuth Fdn. Winky Fdn.

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