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H-2B Guestworkers Win Landmark Decision in Suit against Luxury Hotel Chain

Ruling is one step in the struggle to end modern-day slavery, say victorious plaintiffs

New Orleans – After more than a year of mass meetings and company intimidation of workers, 82 Latin American guestworkers obtained a precedent-setting legal victory this week that provides relief to tens of thousands of foreign guestworkers on H-2B visas who typically are forced to pay exorbitant fees to obtain low-wage, temporary jobs in the United States.

U.S. District Judge Eldon E. Fallon, of the Eastern District of Louisiana, ruled that non-agricultural guestworkers who come to the U.S. under H-2B visas are entitled to the same protection under the federal Fair Labor Standards Act (FLSA) that all other workers in the United States enjoy. The judge has not ruled on damages.

The defendant in the case, hotel tycoon F. Patrick Quinn III, president of Decatur Hotels LLC, and hundreds of other employers across the hurricane-wracked Gulf Coast and throughout the nation are taking advantage of guestworkers to obtain cheap labor. Many look the other way as guestworker recruiters rob migrant workers of hundreds of thousands of dollars.

The ruling in *Castellanos-Contreras, et al., v. Decatur Hotels, LLC, et al.*, is an important precedent for the more than 100,000 H-2B guestworkers who enter the United States legally each year and serves as a strike against a system that members of the newly formed Alliance of Guestworkers for Dignity describe as “modern-day slavery.” The Alliance is a guestworker-led organization dedicated to challenging the rampant abuse in the guestworker program and to fighting for the rights of all workers in post-Katrina New Orleans.

Lured by false promises made by aggressive labor recruiters working closely with Quinn, the Decatur workers incurred great debts to obtain New Orleans hotel jobs in the wake of Katrina, only to find themselves held captive by a visa program that ties them to one employer. The workers, who were economically desperate in their home countries, sought better opportunities in the United States and plunged their families into debt when they each had to pay labor recruiters between \$3,500 and \$5,000.

“I worked in Mr. Quinn’s hotels for next to nothing because I had to earn enough money to make back what I paid to get here,” said Jose Sanchez, plaintiff in the case and worker leader in the Alliance of Guestworkers for Dignity. “Even though I was so tired at the end of the day, I would go to the meetings at night because I knew that this was important not just for our group, but for

all guestworkers in the U.S.”.

The plaintiffs are represented by the Southern Poverty Law Center, National Immigration Law Center and civil rights attorney Tracie Washington, president of the Louisiana Justice Institute. They are working closely with the Alliance of Guestworkers for Dignity, a project of the New Orleans Workers' Center for Racial Justice.

“This is a tremendous victory for all workers of color in New Orleans who for too long have been exploited by unscrupulous employers in the service industry,” said Tracie Washington. “We will continue to fight on their behalf until we achieve true worker justice in New Orleans.”

As part of a larger guest worker organizing campaign spearheaded by the Alliance of Guestworkers for Dignity, workers from Bolivia, Peru and the Dominican Republic met secretly over three months as they organized a meeting to hold Mr. Quinn accountable but he refused to meet their main demands which included the reimbursement of the money they paid to labor recruiters in order to work for him. As a result of his refusal, they filed the lawsuit in August 2006 alleging that defendants violated the FLSA when the company failed to reimburse them for the inflated costs of their trip to New Orleans, including airfare, visa processing costs and other travel expenses. Following Hurricane Katrina, when the defendants were housing Katrina survivors, most of whom had just lost their jobs, the defendants filed an application with the U.S. Department of Labor (DOL) to bring in guestworkers, certifying that there were no U.S. workers willing or able to do the job. Decatur Hotels, aiming to find the cheapest labor possible, used a chain of unscrupulous recruiters to import an estimated 300 guestworkers with promises of 40-hour workweeks and plenty of overtime. Instead, those workers found themselves working about 25 hours a week and sometimes far less, with no way to pay back the debt they had incurred.

“The systematic abuse of guestworkers, who are mostly poor, begins in their home countries, where they are forced deeply into debt to pay outrageous fees simply for the right to work for less than a year at a time in the United States,” said Mary Bauer, director of the Southern Poverty Law Center’s Immigrant Justice Project. “This puts them in a desperate situation if their employer cuts their hours or abuses them in other ways, because under U.S. law, they cannot seek alternative employment.”

This decision comes at a critical time as Congress and the White House are designing an expanded temporary worker program as part of larger immigration legislation.

“As President Bush and Congress seek to expand the temporary worker program, this and other organizing efforts by guestworkers across the Gulf Coast have unveiled the brutal realities of the H-2B visa program,” said Saket Soni, Lead Organizer of the New Orleans Workers' Center for Racial Justice.

Attorney Marielena Hincapié, director of programs with the National Immigration Law Center, praised the workers who “organized themselves and courageously came forward to demand that they enjoy the same protections under U.S. labor laws. In doing so, they have exposed the almost nonexistent monitoring by the DOL and the lax labor law enforcement that plagues the current H-2A and H-2B visa system.”

The workers who lead the Alliance of Guestworkers for Dignity have endured exploitation akin to that experienced by workers under the abusive *Bracero* program, which operated from 1942 to 1964. Many guestworkers believe that they would be better off if they were undocumented.

“We want to ensure there are strong labor protections for all workers and that U.S. workers, especially African-Americans, are not displaced by employers who simply want cheaper labor and to exploit us,” added Daniel Castellanos-Contreras, plaintiff and worker leader in the Alliance of Guestworkers for Dignity. “We demand that government officials and immigrants’ rights advocates consult those of us who are living the realities of the current H-2B visa program before any new temporary worker program is created. Policymakers would think twice about expanding this program if they had to spend one day in our shoes.”

A link to the court’s opinion in *Castellanos-Contreras, et al., v. Decatur Hotels, LLC, et al.*, (Case No. 06-4340) may be found at:
http://www.nilc.org/immsemplymnt/lwiw/Castellanos_Decision.pdf

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