

'Guest workers' sue companies over pay

Foreign laborers in visa program allege exploitation

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Armenio Pablo-Calmo, a Guatemalan national, spent six winters as a tree planter in the pine forests of the South as part of a "guest worker" program that is required under federal law to pay him the prevailing wage for such jobs.

That ranges from \$6.32 an hour in North Carolina to \$9.20 an hour in Alabama, according to the U.S. Labor Department. Pablo-Calmo says he and his co-workers were paid less than the federal minimum wage of \$5.15 an hour, were not paid overtime and often were required to pay for their own tools, visas and travel costs. Last year, they sued Eller and Sons Trees, their employer, for back wages and reimbursement of out-of-pocket costs.

A federal judge classified the case as a class-action lawsuit on Sept. 28; the case now involves about 6,000 tree planters. It is drawing national attention as one of several legal challenges to the H-2B visa program, which admits 66,000 foreigners into the USA each year to do temporary manual labor. As President Bush has proposed tripling the number of such visas issued each year, the H-2B program has come under criticism from the Southern Poverty Law Center and other groups that say it has been used by employers to exploit guest workers.

The center, which filed the lawsuit involving Pablo-Calmo, also has sued three other forestry companies as well as a hotel chain on behalf of foreigners who have worked at 15 hotels in New Orleans since Hurricane Katrina. One of the forestry suits was settled in September, when Idaho-based Alpha Services agreed to pay a group of Latino workers an undisclosed sum for back pay and travel costs, according to court papers.

"We hope this has a huge impact and other employers see they cannot just choose to hire guest workers and then abuse them with no consequences," says Mary Bauer, an attorney at the law center.

Organized labor has long opposed the H-2B program and other guest-worker initiatives, arguing that they are used to abuse immigrants and undermine wages for U.S. citizens. Eller and Sons and other employers targeted in the lawsuits reject the notion of any abuse and say that such programs help fill jobs most Americans won't do.

Larry Stine, an Atlanta lawyer who represents the four forestry companies, says that the claims in the lawsuits are "overblown" and that the workers are overstating their hours on the job.

"This is not a case about people being exploited," he says.

The Ellers' suit also accuses the firm's recruiters in Guatemala of requiring laborers to hand over deeds to their property to get jobs in the USA. Stine says the company was unaware of the practice until the lawsuit was filed and that it has been stopped. He says workers were asked to leave deeds with recruiters temporarily to try to ensure the workers would return to Guatemala.