

BENEATH THE PINES

Stories of Migrant Tree Planters

PUBLISHED BY THE IMMIGRANT JUSTICE PROJECT
OF THE SOUTHERN POVERTY LAW CENTER

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INTRODUCTION

Throughout the South, men imported from foreign countries are doing backbreaking forestry work under the federal government's "guestworker" program. Denied the protection of the marketplace, these foreign workers are modern-day indentured servants, bound to unscrupulous labor contractors who routinely exploit them. Often forced to mortgage their futures to get here, they are systematically underpaid in jobs that are as dangerous as they are grueling. If they dare to complain, they and their families risk physical retaliation and financial ruin.

Here, in their own words, are the stories of these migrant workers who are brought to the United States from Mexico, Guatemala and Honduras to plant trees, thin forests and apply herbicides for timber contractors that operate on our public lands and on the huge commercial tracts of the South.

Under federal rules, labor contractors who bring in these workers on short-term, temporary H-2B visas must guarantee them a minimum hourly wage, or "prevailing wage," that varies based on the geographic location where the work is performed. To obtain these visas, employers must certify that they have been unable to find enough domestic workers to do the job.



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This system is broken. The Immigrant Justice Project of the Southern Poverty Law Center has documented serious, widespread abuse and exploitation of H-2B reforestation workers:

- ☀ Workers routinely log 60 or more hours each week but earn substantially less than the minimum wage of \$5.15 per hour, and certainly less than the “prevailing wage” required to be paid to H-2B reforestation workers.
- ☀ Workers are not paid federally required overtime and often are forced to pay for their own work tools, visas and travel expenses — in violation of the law.
- ☀ Some employers seize workers’ passports and other identity documents upon their arrival, and many require workers to leave the deeds to their homes with recruiters in their home countries. These practices create a captive workforce unlikely to complain about wages and working conditions.
- ☀ Workers often suffer terrible accidents on the job, but few receive workers’ compensation benefits. Workers commonly are driven long distances at high speeds without sufficient seat belts. Many have lost their lives in van accidents.

In the course of preparing four class action lawsuits against forestry contractors, we have talked with more than a thousand *pimeros* — men who have planted, thinned and sprayed chemicals on the trees in our nation’s forestland — since December 2004. This report contains the words of just a few of these men, but the stories they tell are representative of hundreds of others with whom we have spoken. Many of these stories are taken from sworn statements filed in various lawsuits on behalf of forestry workers in the South.

Finally, we offer recommendations — ranging from increased enforcement of guestworker rights to new safety requirements — to ensure that these workers are treated fairly when they come to work in the United States.

*“Not just anyone can tolerate this work.
You never forget it. If you can tolerate this work, you
can tolerate anything.”*

SERGIO HERNANDEZ GALINDO, H-2B FORESTRY WORKER



THE RECRUITMENT

When they are recruited in Mexico, Guatemala or other countries, H-2B forestry workers typically have to pay large amounts of money in order to obtain jobs. Typically, workers arrive in debt from \$500 to \$5000. They often pay interest rates on that debt of 20% per month. Many workers are required to leave collateral in their home country to ensure they will comply with the terms of their contracts in the U.S.



“It costs us money to come to the States every year. We would arrive in the States in debt. What I earned planting trees in the States was hardly enough to pay my debt. It was really hard for us to fight to get to the States legally and then not earn any money. We were told we had to leave our deeds to get the job. On a blank paper we had to sign our names and hand over our deeds. They said that if we didn’t sign this paper they wouldn’t bring us to the States to work. We suffered when we came here. We suffered a lot. The company always treated us poorly, from beginning to end.”

Alvaro Hernandez-Lopez, H-2B forestry worker

“Sometimes I was very worried because, before I came to the U.S., the labor contractors who hired me required my wife to report to an office near my home. The contractors said that if I was going to work for [the forestry company], my wife would have to sign a document that said that if I broke my contract, my wife would be held responsible in Guatemala. I didn’t understand exactly what this threat meant, but knew that my wife would have to sign if I was going to get the visa. The work was very hard, but I worried about leaving because my wife signed this form to get me the job and I worried about her.”

Nelson Ramirez, H-2B forestry worker



“Every time I traveled to the United States to work [in tree planting], I paid about \$2,000 in expenses related to my trip. I was never reimbursed for this money.”

HUGO MARTIN RECINOS-RECINOS, H-2B FORESTRY WORKER

PART II

THE WORK

Workers labor long hours from dawn to dusk, often 6 or 7 days per week. It is physically arduous work, and the conditions are grueling.



“Sometimes we had to plant in water. You plant a tree every three steps. If you walked three steps and you ended up in water, you had to plant there The bags we used to carry the trees were old. We paid for them. There is a part that clips onto your waist to hold it up. These parts would rub on your hips because the spongy pad had worn off because they were old. I had blisters from the rubbing. It was so hard to plant the next day with blisters like that.”

Otto Rafael Boton-Gonzalez, H-2B forestry worker



“After the planting was over, we used chemicals to kill weeds so the trees would grow faster. The pumps were very old and would often get clogged. When we first would use them, we would get headaches. The chemical would leak on our shirts and at the end of the day we would be wet. Sometimes our hands became blue from the chemicals and we ate like that because there was no water to wash with.

This chemical is pure poison.”

LEONEL HERNANDEZ-LOPEZ, H-2B FORESTRY WORKER

“When I went to work I weighed about 190 and when I came back, I weighed about 130, 135. My first week planting trees, I earned \$60. [After paying rent] I didn’t have any money so I went to buy potatoes and I boiled them with salt. I didn’t have anything to drink so there was this bucket that my co-workers had left clean so I filled it with tap water and drank it.”

Sergio Hernandez Galindo, H-2B forestry worker



“We planted on land where we could hardly walk through the brush. We had to cut our way through and were not paid for any of this work time. We were only paid per tree planted. We did not earn enough money by production to earn close to the prevailing wage rate on an hourly basis. This was an even bigger problem when the terrain was bad. Some days we had to spend much of the day clearing brush to make the land able to be planted. We were not paid at all for [this time]. We also never received overtime pay, despite the fact that we worked much more than 40 hours per week.”

ARMENIO PABLO-CALMO, H-2B FORESTRY WORKER

THE PAY

Tree planters are paid by the thousand trees planted, and are told that they are expected to plant 2,000 trees or more in an 8-hour day, a task that is often impossible. Workers are routinely cheated out of hundreds of dollars of pay every week on the job.

Virtually every forestry company the Immigrant Justice Project encountered provides workers with pay stubs showing substantially fewer hours than the workers actually worked.



“We were paid per bag of pines that we would plant. We weren’t paid for other tasks that we did, like loading or unloading pines at the cooler or filling our bags with seedlings. At times we would have to wait at the tract during the day until the soil would thaw, and we weren’t paid for this time. At times we would have to spend time during the day traveling between the tracts that we would plant and we weren’t paid for that time either. We weren’t paid for any hours of work that weren’t planting.”

Jesus Santiago-Salmon, H-2B forestry worker

“It was obvious that the checks did not reflect the actual hours that we worked for the [forestry company]. For example, I remember one week in which the defendants gave me a pay stub that listed a day of my work as follows: 500 trees planted in 0 hours... .

“We worked up to 12 or 13 hours and we could only plant 1,300 or 1,500 seedlings [because of difficult conditions]. Our pay would come out to approximately \$25 for a 12-hour workday... . At the end of the season, I had only saved \$500 to send home to my family.”

Escolastico De Leon-Granados, H-2B forestry worker

ACCIDENTS AND INJURIES

Getting injured on the job—either in the forest or in the van traveling to and from the forest—is a part of life for pineros. Workers rarely receive any compensation for these injuries.



“[After I was injured on the job] I was very sick for 30 days, with six stitches on my wound. I never received any help from the company, even having to pay for my own medicine from my own pocket. All the while I had to keep paying rent on the hotel room where I was staying, even though I made no money... . The only thing I received from the company was belittling, humiliation, mistreatment and bad pay.”

Leonel Hernandez-Lopez, H-2B forestry worker

“We were spraying, and I had to walk through the fallen trees. A branch that I stepped on broke. I fell backwards down about five meters and my leg ended up bent underneath me. The supervisor told me, ‘Get up, get up,’ so that I would continue working. When he saw I did not want to get up, he said, ‘Don’t be a stupid wimp,’ so I had to keep spraying. My leg was swollen and I asked the crew leader to take me to the doctor. He told me... he didn’t have time to be taking me to the doctor. Finally I went to the doctor on my own. I have thousands of dollars in medical bills and I have never received any money for the time I lost from work. This was more than a year ago and my leg still swells, hurts and I almost can’t work.”

Jose Luis Macias, H-2B forestry worker

“We were in a van accident on the way to work because the van was driving way too fast. Almost everyone in the van was hurt, some very badly. I had my seatbelt on, but there were not enough seatbelts for every person in the van. At the time, everyone else in the van was hurt so much worse than me so it did not seem to matter too much what had happened to me. But even now, more than a year later, I have a back ache, a head ache and I have a hard time working with my right hand because it hurts so bad. I am not sure I will ever be completely better.”

Maurilio Morales-Carrillo, H-2B forestry worker



“What happens is the companies do not want to lose time. I cut my thumb while I was planting trees. I wrapped it up and worked two more days until I couldn’t work anymore because of the pain. Seven days after the injury, [the company] finally took me to the doctor because my thumb was infected. I was in the hospital for fourteen days and they told me they wanted to cut off my thumb because the infection was so bad.”

ENRIQUE NAPOLEON HERNANDEZ-LOPEZ, H-2B FORESTRY WORKER



“In my sixth year of planting trees, I was poked in the eye with a branch while I was planting with a shovel. This happened in January of 2005 and I am still suffering. I cannot see well. Everything is blurry. I cannot work. There was no help from the company.

We are left to suffer while the company is making their money. I have the desire to return to work but I cannot because of what happened. To plant trees you suffer. The land plots are full of brush and thorns. There are places where you cannot get through. It is dangerous. If I had been wearing protective glasses that day, at best I would still be able to work today.

Who knows where I would be now.”

ARMENIO PABLO-CALMO, H-2B FORESTRY WORKER

ASSERTING THEIR RIGHTS

Filing complaints about exploitation on the job is virtually impossible for most workers. They are extremely isolated and transient, moving from one rural hotel or campground to another. Workers speak little English and have little contact with members of the local community. Unlike H-2A (agricultural) workers, H-2B workers are generally not eligible for federally funded legal services, even though they are in the U.S. legally. When workers do file a complaint, they face severe retaliation from employers and recruiters.



“The man said that if [my son] did not end the lawsuit, that something could happen to him. He could be killed, he could be put in jail or prison. The man asked me what I would do if that were to happen to my son.”

Leonarda Recinos-Alvarado, mother of H-2B forestry worker

“[The company representative] told me that [the white man] told him that it wouldn’t be difficult for him to arrive in [our town] to destroy the plaintiffs in the case against the company.”

Milder Ronaldo Velasquez-Diaz, H-2B forestry worker

“[The company recruiter] told us that if we did not drop the lawsuit, we were going to have problems being recruited to work in the United States.”

Marco Antonio Salinas, H-2B forestry worker

“They told me that I should be careful because some people could kill me because of the lawsuit that I have filed against the company ...”

Margarito Recinos-Villatoro, H-2B forestry worker



“When the supervisor would see that a person was ready to leave the job because the pay was so bad, he would take our papers from us. He would rip up our visa and say, ‘You don’t want to work? Get out of here then. You don’t want to work? Right now I will call immigration to take your papers and deport you.’”

OTTO RAFAEL BOTON-GONZALEZ, H-2B FORESTRY WORKER

“[The company representative] told me something could happen to my husband in the United States if he did not withdraw the case. They can put him in jail, they can send him to Guatemala...

or they can outright kill him, they said.”

MARIA JIMENEZ-HERNANDEZ DE RECINOS, WIFE OF H-2B FORESTRY WORKER

RECOMMENDATIONS FOR ACTION

The H-2B program should be changed to better prevent U.S. workers' labor standards from being undermined and to protect temporary foreign workers against the exploitation of their vulnerable guestworker status. When true labor shortages occur, the guestworkers who are permitted to work in the U.S. should have the opportunity to earn credit toward permanent immigration status so they may gain economic and democratic freedoms so fundamental to our nation's traditions. At a minimum, their non-immigrant visas should allow them to leave abusive situations and transfer from one employer to another.

The Department of Labor and other agencies must substantially increase their enforcement efforts and penalties, sending the message to employers and labor contractors that if they violate the law, they are likely to be caught, and the cost will outweigh the benefits of violating the law.

Guestworkers must have the ability to take action by bringing charges to federal agencies and, when necessary, filing federal lawsuits. Low-wage H-2B workers cannot afford to hire attorneys to enforce their rights; free legal services at federally funded legal aid programs should be available to guestworkers.

Workers should not have to risk death daily to earn a living. The single largest danger to forestry workers is the ride to and from their job. Better health and safety laws, and better enforcement of those laws, are essential.

In order to ensure fair and decent treatment of workers, the following steps must be taken:

- ☀ Require seat belts for all passengers in vehicles used to transport migrant workers;
- ☀ Increase safety and health inspections for forestry workers so workers can safely do their job;
- ☀ Increase Wage and Hour inspections for forestry workers to ensure workers actually receive the prevailing wage rate promised them and they get paid for all hours worked;

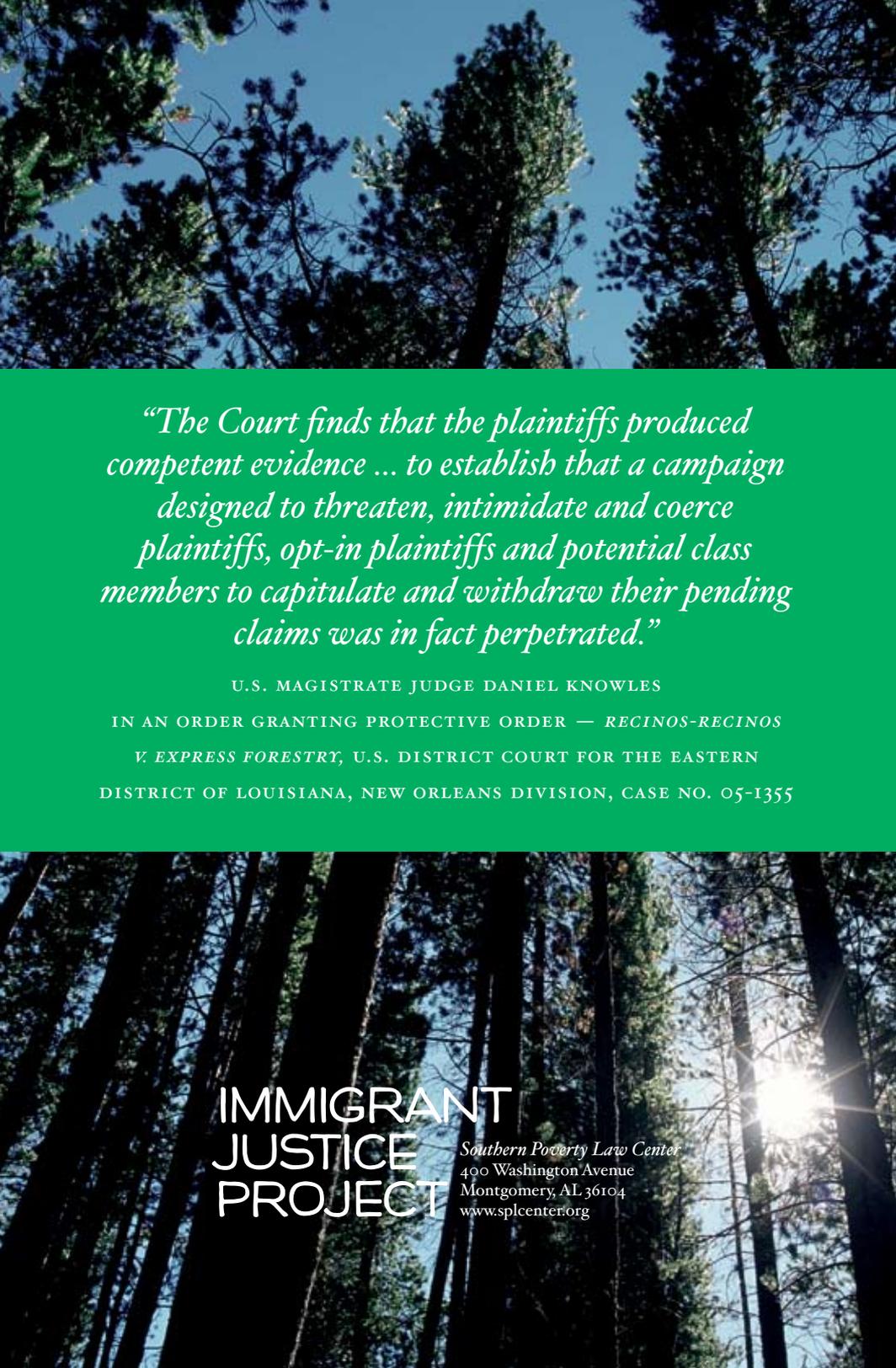
- ☀ Where the Department of Labor does conduct inspections, it should specifically investigate whether landowners are jointly liable for violations of the law;
- ☀ Wage and Hour should enforce the decision in *Arriaga v. Florida Pacific Farms, LLC*, 305 F.3d 1228 (11th Cir. 2002), requiring repayment of travel and visa costs to the extent they bring the workers' wages below the federal minimum wage in the first week of work;
- ☀ Enact statutory changes to make H-2B workers eligible for federally funded legal aid programs;
- ☀ Require the government agencies overseeing forestry activities on public lands to enact a code of conduct to ensure they are not supporting abusive treatment of workers; and
- ☀ Require the Department of Labor to decertify H2B employers that are repeat offenders.



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“The Court finds that the plaintiffs produced competent evidence ... to establish that a campaign designed to threaten, intimidate and coerce plaintiffs, opt-in plaintiffs and potential class members to capitulate and withdraw their pending claims was in fact perpetrated.”

U.S. MAGISTRATE JUDGE DANIEL KNOWLES

IN AN ORDER GRANTING PROTECTIVE ORDER — *RECINOS-RECINOS*
V. EXPRESS FORESTRY, U.S. DISTRICT COURT FOR THE EASTERN
DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION, CASE NO. 05-1355

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