

Fighting Discrimination Against Farmworkers with Families

In the U.S., farmers who can't find enough workers to harvest crops can apply to bring temporary workers from other countries under the H-2A Temporary Agricultural Worker program. These workers can work only for the employer who hired them, which leaves them vulnerable to abuse. In fact, according to farmworker advocates across the country, H-2A workers are among the most exploited people in our economy.

To qualify for the H-2A program, farmers must first attempt to recruit workers in the U.S., under prevailing working conditions, and offer to provide housing to those recruited out of the area where the work will be performed.

In order to take agricultural jobs, many U.S. workers need access to family-friendly housing. However, in many parts of the state, temporary



Photo: United Nations

housing for agricultural workers is, for all practical purposes unavailable, except in grower-provided labor camps. H-2A workers, on the other hand, generally arrive in the U.S. without family. Since it is cheaper to house single workers, many farms—in violation of anti-discrimination laws—have adopted a “workers only” policy with respect to housing, which leads to problems. Because U.S. workers with children can’t find

temporary housing, they can’t take the jobs, and are considered “unavailable,” resulting in farmers’ H-2A applications given the OK.

In addition to being cheaper to house, H-2A workers are also desirable because they’re unable to leave the employer who hired them, which leaves them open to exploitation. “Workers only” policies

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Wage Theft Coalition Looks Ahead to 2015 Legislative Session

The Oregon Coalition to Stop Wage Theft has been busy this year! In February, Coalition members participated in Legislative Days, hosting an information table at the Capitol in Salem and meeting with 28 legislators to discuss wage theft and how it affects Oregon’s hard-working communities.

Soon after Legislative Days, representatives from the Coalition discussed several potential bill ideas with elected officials, government agencies, and community allies to gather feedback and decide on the best strategies to successfully advance workers’ rights during the next legislative session. After several meetings and some spirited (but amicable) debate, the Coalition is now drafting an omnibus bill that, if passed, will increase wage-theft enforcement and provide workers with several crucial tools to recover stolen pay.

In addition to gearing up for 2015, the Coalition is going through some changes. In September, we said goodbye to

Genice Rabe, our Legislative Counsel of the last four years. Genice was pivotal in our legislative successes, sharing her passion, experience and energy with us, and we wish her the best in her next adventures!

To take Genice’s place, NWJP hired Bonnie Allen-Sailer, a recent graduate from Lewis & Clark Law School. Serving a double role, Bonnie will take on legal cases as NWJP’s new staff attorney and coordinate the Coalition’s legislative strategies. (More about Bonnie on Page 4.)

Proud of our own legislative agenda, and excited to support other worker-friendly campaigns, we are looking forward to an intense and rewarding 2015 Legislative Session, and are confident our elected officials will do what’s right for Oregon’s low-wage workers, families and communities.

If you’d like to get involved with the Coalition, please visit our website: www.nwjp.org ■

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SHARE YOUR STORY!

Have you or someone you know had wages stolen?

Write to stories@nwjp.org, or share your story on social media using **#RobbedOnTheJob**

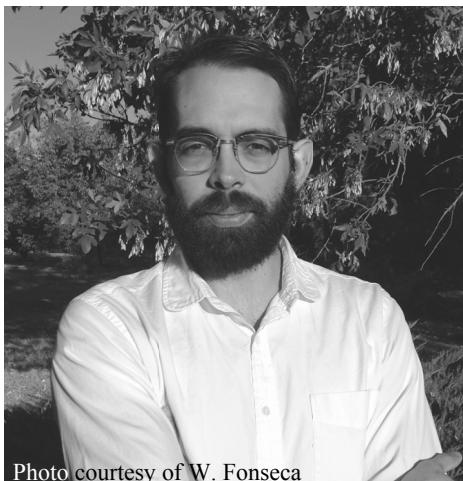


Photo courtesy of W. Fonseca

NWJP Engages H-2B Forestry Workers in Southern Oregon

Photo courtesy of Karen Clark, U.S. Dept. of Labor

Corinna Spencer-Scheurich, NWJP's Directing Attorney, speaking to participants of a forestry workers' outreach event in Medford, Ore. last August. The event was organized by the Dept. of Labor and the Mexican Consulate.

Regular readers of NWJP News will remember that nearly 10 years ago NWJP filed a complaint in Mexico City under the NAFTA Labor Side Agreement on behalf of H-2B temporary guest workers. This year, in response to this and other complaints by Farmworker Justice and Centro de los Derechos del Migrante, the U.S. and Mexican Labor Secretaries signed a joint ministerial declaration that required both governments to create an action plan that included outreach events and educational activities for employers and migrant workers across the U.S.

The U.S. Department of Labor (DOL) and the Mexican Consulate recently invited nonprofits and state agencies

to Medford, Ore. for one of these events in order to educate H-2B forestry workers about their rights and provide them with resources.

At the event, NWJP was joined by DOL, the Mexican Consulate, Legal Aid Services of Oregon's Farmworker Program, UNETE Center for Farmworker Advocacy, Northwest Forest Worker Center, Oregon Bureau of Labor and Industries, WorkSource Oregon, Oregon Department of Consumer & Business Services, and Oregon Action.

We hope this is just one step toward recognizing and remedying the abuses that temporary foreign workers face when working in the U.S. ■

Volunteer Attorney Spotlight: Walter Fonseca

After passing the Oregon Bar Exam last summer, Walter Fonseca, a graduate of Lewis & Clark College of Law, began volunteering his time and skills at NWJP.

NWJP regularly co-counsels with, and mentors new attorneys as part of its commitment to expanding access to qualified legal representation for low-wage workers.

In his time with us, Walter successfully resolved the case of a restaurant worker who was terminated after taking state- and federally-protected medical leave, recovered the unpaid wages of a janitorial worker, and participated in discovery and post-judgment collection in ongoing cases.

We wish Walter all the luck in his new job at the Oregon Law Center in Ontario. Workers will be lucky to have him as an advocate! ■

Current Cases: Racial Discrimination Against Bank Employee

NWJP is currently litigating a discrimination lawsuit in federal court on behalf of an African-American worker who was employed at a major bank for over a decade.

In early 2013, our client reported to her supervisors that employees were not receiving proper breaks and meal times. They failed to correct the violations, despite her repeatedly bringing the issue to their attention. She also reported what she believed to be a discriminatory bank policy that required African-American customers to provide more identification than their non-Black counterparts when opening new accounts at her branch.

Her supervisor halted the discriminatory policy for a time, but upper management directed him to reinstate it. In what we believe was direct retaliation for reporting the unlawful practices of the

bank, our client was placed on a performance improvement plan in August 2013, even though she had no previous record of failing to perform or to meet expectations. The issues raised in the improvement plan had never been brought to her attention by her direct supervisor or by management.

She was eventually fired in the fall of 2013. After her dismissal, she learned from a former supervisor that both the termination and improvement plan were issued at the direction of upper management, and that although the supervisor had wanted to rehire former African-American employees, he was not allowed to do so.

The lawsuit asserts our client was discriminated against because of her race and her opposition to the unlawful practices of the bank. ■

Fighting Discrimination

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discourage U.S. workers from applying for available jobs, which translates into farms being able to access a limitless pool of foreign (cheaper) workers.

Both the federal Fair Housing Act and Oregon housing laws forbid housing discrimination against families with children.

Advocates from the Oregon Law Center, Legal Aid Services of Oregon, and NWJP persuaded the U.S. DOL and the Oregon Employment Department that H-2A applications for farms that take a "workers only" stance should be denied for violating discrimination laws. When its application was denied for offering "workers only" housing, a farm appealed to BALCA (the appellate body of DOL), but the decision barring discrimination against families was ultimately upheld in federal court. Oregon farms applying for H-2A workers are now also required to provide them with family housing.

A similar court dispute in Washington resulted in a court decision holding that housing statutes in that state also prohibit discrimination against farmworkers with children. ■

Thank You, Volunteers!

NWJP regularly hosts volunteers, students, and attorneys who are committed to protecting workers' rights and developing their knowledge and skills. Without their dedication we would not be able to carry out our mission. A heartfelt **THANK YOU** goes out to those who helped us last quarter:

- ✿ **Shannon García, Shanti Lewallen, Justin Reiter, and Derek Swanson**, law students at Lewis & Clark.
- ✿ **Alena Morgan**, law student at the University of Oregon.
- ✿ **Jillian Clinton and Glenda Suchi**, paralegal students at Portland Community College.
- ✿ **Walter Fonseca and Elizabeth Inayoshi**, volunteer attorneys.
- ✿ **Brook Birchard, Anne Brink, Micaela Kennedy, James Labrador, Pat Martínez, and Meredith Meacham**, Annual Event Volunteers.



Photo courtesy of Violeta Rubiani

iSalud! to the wonderful law clerks, paralegal interns, and attorney volunteers we were lucky to host last quarter. Some of them are seen here, with NWJP staff, celebrating their last day.

NWJP's 2014 Annual Event a Success

On June 12, we welcomed over 100 guests at the Eliot Center in downtown Portland for NWJP's Annual Celebration of Worker Justice. It was an event filled with fun, delicious food, and great music.

NWJP presented Larry Kleinman, its Board President and Director of National Initiatives at CAPACES Leadership Institute, with the *Tribune of Worker Justice Award*. Larry was introduced by the inspiring Barbara Roberts, former Governor of Oregon.

In his keynote address, Luis Pérez, the first undocumented graduate from UCLA Law School and a remarkable young man, spoke of the resilience of the immigrant populations with whom he works and shared the challenges and triumphs he's experienced in his own search for the American Dream.

We consider the evening to have been a huge success, so *Mil Gracias!* to our staff, board, volunteers, and all the guests who attended and contributed to NWJP and NEED Fund! ■



Photo: Doug Yarrow

From left to right: Michael Dale, Executive Director of NWJP; Barbara Roberts, former Governor of Oregon; and Larry Kleinman, NWJP Board President.

Welcome, Bonnie!



Photo courtesy of B. Allen-Sailer

Bonnie Allen-Sailer joined NWJP as a Lewis & Clark Law School Fellow in September 2014 after spending two semesters working with us as a law clerk.

Bonnie will take on legal cases as our newest staff attorney, and support the Oregon Coalition to Stop Wage Theft during the 2015 legislative session.

Bonnie has long advocated for immigrant and workers' rights: as a law student, she worked with Immigrant Law Group and the Oregon Law Center's Farmworker Program in Woodburn, and before then, with the Oregon Food Bank and a food bank in Watsonville, Calif.

Bonnie graduated *summa cum laude* from Lewis & Clark Law School with a Certificate in Public Interest Law. She has a BA from Reed College.

Welcome back, Bonnie! ■

Working Women's Project Update

With financial support from the Spirit Mountain Community Fund, NWJP has been working hard to better reach working women in Oregon and to educate them about their employment rights.

Recently, we represented seven hotel housekeepers after they were terminated for complaining about lack of breaks and poor treatment by their supervisor.

Through their testimony to the National Labor Relations Board and their work with NWJP attorneys and staff, our clients were successful in their complaint.

Organizing and educating workers about their wage-and-hour rights are especially important in hospitality work, where overtime and minimum-wage calculations are often obscured by payment systems based on a per-room, rather than hourly, rate.

Patricia Laguna, NWJP's paralegal, is now working with these women so that they can educate others at their new jobs. In this way, former clients become future leaders in the struggle for the rights of working women in Oregon. ■

Have you seen our new website?

Check it out, and don't forget to follow us on Facebook and Twitter!

www.nwjp.org

"Ban the Box" Policies Sweep the Country, Give People with Convictions a Second Chance

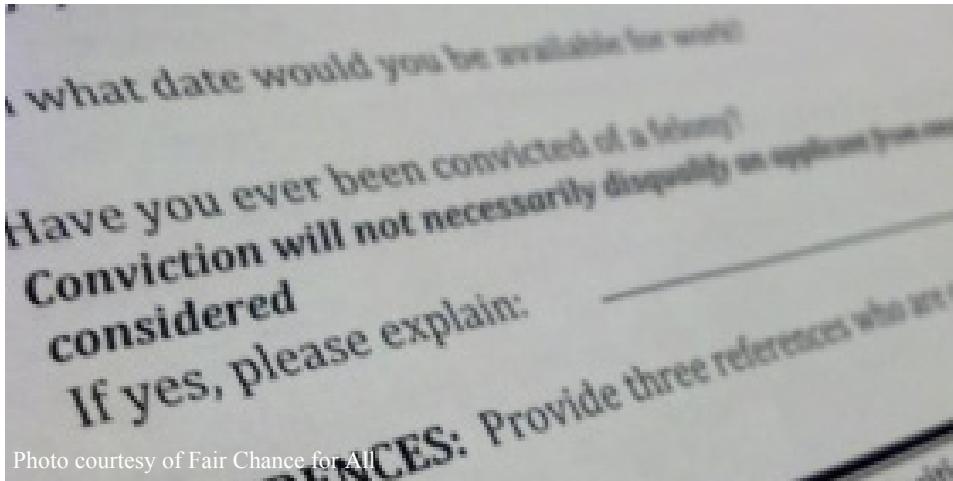


Photo courtesy of Fair Chance for All

Ban the Box is an ongoing campaign in cities and states around the country pushing for the removal of the "Have you ever been convicted of a crime?" question from employment applications. In 2007, Oregon's Multnomah County removed the question from its job applications. Portland went one step further last July, removing criminal background check language from applications for certain jobs with the city, and joining the rapidly increasing number of cities and counties that have already adopted Ban the Box policies.

What does NWJP have to do with the Ban the Box movement and why would we support it? We're glad you asked.

Our clients—immigrant, low-wage, contingent workers—are systematically and routinely exploited, discriminated against, and robbed of their wages. This happens because of outdated and unjust institutional structures and an economic system that views these workers as "disposable." But it also happens because of the circumstances in which these workers find themselves: they are limited in their ability to find work, ignorant of their rights, and so desperate to earn a livelihood, they often work for months without asserting their rights, hoping their bosses will come through at some point.

Individuals returning to their communities after serving a prison sentence face similar difficulties. Trying to find employment with a criminal record is nearly impossible, and "checking the box" is a significant barrier to employ-

ment and to workers' successful re-entry into society.

Like our other clients, those with a criminal record are eager to find work, so they will take the jobs everyone else would run from—the same unsafe, low paying, temporary, and risky jobs we see our immigrant and low-wage clients take. Also like our clients, once in those jobs, people with records are likely to be exploited and taken advantage of.

“People with records are becoming an underclass

You see where we are going: people with records are becoming yet another "underclass," a group of people who is unjustly targeted for abuse. Because these individuals don't have many choices when it comes to employment, they are less likely to report unlawful employment practices including wage theft, discrimination, and unhealthy or unsafe working conditions. Many may also be unaware of the workplace protections the law provides. Instead, feeling lucky to have found a job at all, they fear losing it and remain silent.

Advocates know, however, that there are valid concerns regarding the employment of individuals with records. In Oregon, laws already in place prevent individuals with certain criminal histories from working with vulnerable populations or in finance, or have access to sensitive, personal information. Ban the Box is not seeking to repeal these laws,

but wants to ensure that individuals—who previously had no chance of even receiving a call-back—get an opportunity to make it to the interview stage and to explain why they are now good candidates for employment.

The stigma associated with having broken the law is difficult to ignore, especially at the initial stages of job applicant screening, and it affects minority and low-income applicants disproportionately. This is why proponents of banning the box believe that removing the conviction question will ensure a larger and more diverse candidate pool and will connect employers with a wider selection of qualified employees.

Many of the Ban the Box campaigns, including the one in Oregon, agree that employers should have the right to require a background check prior to employment. However, they say, a background check should be the last step, not the first. This encourages employers to select the most qualified candidates for the job, allows the prospective candidate to be judged on the basis of qualifications alone, and gives both parties the opportunity to openly talk about questions that may come up. Advocates want employers to set the Box aside, and make employment decisions based on real impressions, not stigma or misperceptions.

For a person with a record, re-entry into the community is already difficult. Keeping people with records unemployed or employed in poverty-wage jobs is more likely to lead to recidivism. (According to Fair Chance for All, the group that leads the Ban the Box campaign in Portland, people with records who became employed were twice as likely to avoid future legal trouble as those who were unemployed.) Banning the box allows individuals who have made mistakes to move past the debt they've already paid society, and gives them a genuine opportunity to start anew. And that's good for all of us.

For more information about the Ban the Box campaign, please visit Fair Chance for All's website (fairchanceforall.com), or the National Employment Law Project's website (www.nelp.org). ■



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The Northwest Workers' Justice Project's mission is to strengthen the workplace and organizing rights of low-wage, immigrant and contingent workers in Oregon and beyond.

Many heartfelt thanks to everyone who has supported and joined in our work.



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