

**Archive: RICO Lawsuits Show Need to Eye Recruiters**

## RICO Lawsuits Show Need to Eye Recruiters

Zinkle Fruit Co. paid \$1.3 million to settle a lawsuit filed by a group of legal workers accusing the grower of depressing wages, which is illegal under RICO laws, by hiring illegal immigrants. The fine marks the first time that legal workers will receive damages for wage depression attributed to hiring illegal immigrants.

**By Gina Ruiz**

**T**he use of illegal immigrant labor, whether deliberate or accidental, is proving to be a very costly practice for many companies. Take the case of Zirkle Fruit Co., a fruit grower in Selah, Washington, that recently paid \$1.3 million to settle a class-action lawsuit brought by a group legal workers alleging that management--and the company's recruitment firm, Selective Employment Agency--hired undocumented immigrants to maintain artificially de-pressed wages.

This is the first time that legal workers in the U.S. will receive damages for wage depression attributed to illegal immigration, says Howard Foster, attorney for the plaintiffs and shareholder at Johnson & Bell in Chicago. Foster is quick to point out, however, that the Zirkle case, while groundbreaking, is part of a larger trend.

Recently, there has been a flurry of lawsuits accusing companies of depressing wages, which is illegal under the federal Racketeer Influenced and Corrupt Organizations Act, better known as RICO. Each situation has its own nuances, but many of the cases have one thing in common: The companies claim they were unaware that they were employing illegal immigrants because external labor recruiters were the ones responsible for the hiring.

This factor raises legal questions as to whether the accused companies fully meet the criteria for being tried under the racketeering act. Circuit courts disagree on how to treat these cases, but the Supreme Court's recent decision to hear a case involving Mohawk Industries Inc. could end that. Mohawk, one of the largest manufacturers of carpets in the country, contends that the civil racketeering suit should not proceed because it does not meet RICO criteria. A hearing is scheduled for April, according to Foster, who is representing the plaintiffs.

Regardless of its outcome, the case underscores the importance for companies to exercise quality control when using external recruiters, says Teresa Tracy, an attorney at Baker & Hostetler in Los Angeles. Being careless about hiring practices could cost companies substantial sums. Last year, Wal-Mart Stores, the world's largest retailer, paid \$11 million to settle a federal investigation into its use of undocumented workers as janitors.

Although employing illegal immigrants is risky, some employers continue to do so. In certain industries, illegal immigrants seem to be the answer to a hiring manager's prayers. They provide a steady stream of low-cost labor that imposes few demands for better benefits or higher pay. Hiring illegal immigrants is particularly tempting for companies in labor-intensive industries, including farming and construction, where there are seasonal peaks and valleys in the demand for workers. Currently, there are about 600,000 illegal immigrants working on farms across the country, according to the U.S. Government Accountability Office.

Taken as a whole, there are about 10 million illegal immigrants living in the U.S., according to the Center for Immigration Studies. If this segment of the workforce increases, it will undoubtedly draw more attention from government authorities, human rights groups and the legal workers who may be vying for the same jobs. According to many industry observers, this increased scrutiny will likely create a breeding ground for new lawsuits--and the possibility for more decisions like the Zirkle case.

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