



## They stood up by sitting down

by Polly Halfkenny, NLG L&EC member

On Friday, December 5, 2008, 260 members of **United Electrical, Radio and Machine Workers of America [UE] Local 1110** occupied the **Republic Windows and Doors** plant in Chicago demanding their vacation pay and money owed under the federal WARN Act. **Republic** told workers three days earlier it was closing the plant and laying off all the workers because Bank of America had cut off the credit it needed to operate. Bank of America, the country's second largest bank, received \$25 billion in taxpayer money as part of the \$700 billion government bailout of the financial industry.

The **Union** and its supporters rallied and picketed in front of Bank of America's main Chicago branch on December 3, chanting, *You got bailed out, we got sold out.* As **Local 1110 President Armando Robles** stated, "Just weeks before Christmas we are told our factory will close in three days. Taxpayers gave Bank of America billions, and they turn around and close our company. We will fight for a bailout for workers."

The workers' plant occupation drew national and international support, including support from then **President-elect Barack Obama**. The *Chicago Sun Times* quoted **Obama** as saying, "When it comes to the situation here in Chicago with the workers who are asking for their benefits and payments they have earned, I think they are absolutely right . . . what's happening to them is reflective of what's happening in the country. The **Reverend Jesse Jackson** expressed it well when he said that, like **Rosa Parks** - 50 years earlier, the **Republic workers** stood up for justice by sitting down. "In many ways," said **Jackson**, their action "is the beginning of a larger movement for mass action to resist economic violence."

Pressured by resolutions to withdraw city and state funds from the Bank and by spontaneous demonstrations in front of branches in major cities throughout the country, Bank of America and JP Morgan Chase agreed to pay workers the money they were owed. The six-day plant occupation ended when **UE 1110**  
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**JOIN the NLG L&EC at LCC in Miami Beach on Tuesday morning May 12, 2009 at 7:00 a.m. for breakfast.** Speakers are UE Field Organizer **Leah Fried** and UE General Counsel **Polly Halfkenny**. We will show short clips from the DVD *Hasta la Victoria* and there will be an opportunity to discuss organizational and legal strategies in the Republic workers' struggle. **RSVP** fcs@kazanlaw.com.

## Harvest of Blame: Murder in the 105th Degree

by Anthony Prince, NLG L&EC member

**Editors's Note:** *As we go to press, the San Joaquin County District Attorney charged three top officials for a now-defunct farm labor contractor with involuntary manslaughter and one felony and five misdemeanor violations of the state labor code in the death of **Maria Vasquez Jimenez** who died May 14, 2008, from heat stroke after working in a sweltering vineyard last year because she lacked access to shade and water as she pruned white wine grapevines for more than nine hours in nearly triple-digit heat at a Central Valley vineyard. More details at the end of this article.*

One year ago this month, seventeen-year old **Maria Vasquez Jimenez**, two months pregnant, collapsed and died as she toiled in the blistering grape fields of Lodi, California. Maria had worked nine hours without shade, scared to take even a sip of water for fear of recriminations from Midwest Farm Labor and West Coast Grape Farming, Inc., both of which have been named in wrongful death lawsuits. On May 14, 2008, Maria became the latest – but certainly not the last – to be felled as the burning sun laid siege in the most fertile agricultural region in the world.

Since 2005, almost two dozen California farm workers have suffered horrible, inexcusably preventable heat-related deaths. The toll includes **Salud Zamudio Rodriguez**, 42, whose last act was to frantically wave his arms before perishing in a 105-degree bell pepper field near Arvin. Nearby, the desiccated corpse of **Ramon Hernandez**, also 42, was discovered in a Huron melon field; **Augustin Gudino** worked only two days before his body was hauled out of a Kern County vineyard. For every one of these victims, the story is the same: growers who ignore the minimal safety regulations, determined to get their produce to market no matter how bloodstained it may be.

The issue is whether state legislatures or Congress – or administrative bodies such as Cal/OSHA or Federal OSHA – will act to halt this slaughter by properly regulating and vigorously enforcing worker exposure to outdoor and indoor heat. Just as the entire ladder is raised when the lowest rung moves up, the battle to end heat-related fatalities in the fields is critical to all workers whose lives are risked daily in the shops, construction sites, mines and mills. The military and others have clear guidelines for addressing heat related illnesses, but industry recoils at attempts to provide mandatory breaks, temperature and humidity triggers coupled with attention to the intensity of the work, and acclimatization. Strict requirements for training and responsive medical attention are also needed.

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## Report from the Bay Area NLG L&EC Focus on Employee Free Choice Act

The L&EC in January co-sponsored a well attended event on the **Employee Free Choice Act**. Speakers included **Jon Hiatt**, AFL-CIO General Counsel and **Steven Greenhouse**, *New York Times* labor reporter and author of **The Big Squeeze**. A remarkable presentation from **Sara Steffens**, union organizer and former Contra Costa Times reporter, rounded out the panel. The panel focused on organizing under current US labor law, the link between economic recovery and labor law reform, and the prospects for enactment of the **Act** in 2009.

The **Employee Free Choice Act** is labor's 2009 legislative priority. To restore workers' right to choose a union, this **Act** calls for penalties for employers who discriminate against union supporters, provide for mediation and arbitration when employers and unions fail to negotiate first contracts, and allow workers to form a union when a majority sign union membership cards. Labor is combatting a vicious anti-union campaign as the business community, which spent millions on anti-EFCA ads during the 2008 election cycle, continues to try to block this labor law reform.

The **Bay Area NLG L&EC** also helped build two other labor law programs. In March a full lecture hall greeted **Wilma Liebman**, NLRB Chair, who spoke about the future of labor law in the **Obama Administration**. In April the third annual **David E. Feller Memorial Labor Law Lecture** featured 9th Circuit Judge Marsha S. Berzon, whose lecture *A General Theory of the Collective Bargaining Agreement at 35* was particularly timely in light of the recent decision in *14 Penn Plaza v. Pyett*. Judge Berzon's lecture commemorated David E. Feller's seminal work, *A General Theory of the Collective Bargaining Agreement* published in 1973. Professor Feller's groundbreaking article proposed a unified legal theory of the rights created by a collective bargaining agreement in the US industrial system.

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### Republic Windows Workers' Victory

members voted unanimously to accept the \$1.75 million settlement negotiated with the banks. Workers' received two months' health care coverage and an average of \$6000 each in vacation and WARN Act pay. The workers also voted to use contributions from supporters to continue the struggle to reopen the plant.

The **Republic workers'** struggle also caught the attention of the CEO of **Serious Materials**, a California company that produces energy efficient windows. **Serious**, interested in expanding in the Chicago area, saw an opportunity with a great facility and disciplined workers. It subsequently won approval of the bankruptcy court to buy the plant assets. **UE Local 1110** negotiated a hiring agreement and contract with them and **UE** members started back to work early April, 2009. **Serious** agreed to rehire all bargaining unit members as the work picks up.

The *Nation* named the **UE** the *most valuable union* in its roster of the *most valuable progressives of 2008*, and readers of **LabourStart** voted [www.ueunion.org](http://www.ueunion.org) the labor website of the year. It remains to be seen whether the actions of the **Republic workers** will spark a true movement for economic justice.

## Labor Unites on Approach to Immigration Reform

*by Ana Avendano, AFL-CIO Office of General Counsel  
and NLG L&EC member*

The **AFL-CIO** and **Change to Win** have agreed on a common approach to immigration reform. The approach is based on a framework developed by former Secretary of Labor **Ray Marshall** and the **Economic Policy Institute** and has five major interconnected pieces:

- (1) an independent commission to assess and manage future flows, based on labor market shortages that are determined on the basis of actual need;
- (2) a secure and effective worker authorization mechanism;
- (3) rational operational control of the border;
- (4) adjustment of status for the current undocumented population; and
- (5) improvement, not expansion, of temporary worker programs, limited to temporary or seasonal, not permanent, jobs.

The new framework differs from past immigration reform proposals in that it is entirely structured to protect workers rights. In the past, the labor movement — and the progressive community in general — was divided over what the mechanism for allowing future workers into the US should be. Some unions supported guestworker programs as the answer. The **AFL-CIO** as well as most of the **CtW** unions disagreed.

The **EPI/Marshall** framework has resolved that dispute by creating an independent agency/commission to assess labor market shortages and allocate visas based on the needs of the labor market. If the Commission determines that there is a long-term labor shortage in a particular occupation, the Commission will issue enough visas to meet that labor need. The same is true for short-term shortages. Thus, in years when the economy is robust (and therefore, where labor shortages are likely), the Commission will issue more visas than it does in tough economic times. [The details of the Commission and the other components of the framework are in the **Marshall/EPI** report, which is available at [www.epi.org](http://www.epi.org).]

Our joint framework recognizes that family reunification has always been the cornerstone of immigration U.S. policy, and should stay that way. The framework also recognizes that the long-term solution is to stop promoting failed globalization policies and encourage just and humane economic integration, which will eliminate the enormous social and economic inequalities at both national and international levels. An essential component of that solution is a fair trade and globalization model that uplifts all workers, promotes the creation of free trade unions around the world, ensures the enforcement of labor rights and guarantees all workers core labor protections.

The **AFL-CIO** and **CtW** have pledged to work together to make sure that any legislative vehicle that moves involving immigration reform will be based on the framework. For more information, contact **Ana Avendano** at [Aavendan@aficio.org](mailto:Aavendan@aficio.org) or (202) 637-3949.

# Brandworkers and Unions Beat Back RICO Lawsuits

by Daniel Gross, NLGL&EC member

**Brandworkers International**, a non-profit organization for low-wage retail and food employees, recently defeated a \$4.5 million Racketeering Influenced and Corrupt Organizations Act [RICO] lawsuit. The suit stems from **Brandworkers' Focus on the Food Chain campaign** which is struggling to end sweatshop conditions at one of New York's best-known retailer and wholesaler of seafood.

Wild Edibles, Inc. exploits mostly immigrant workers from Latin America who work through the night six days a week without overtime pay. The all-white senior management of the company routinely disrespects the workforce which is denied health benefits and a retirement plan.

The RICO suit was dismissed for failure to sufficiently plead a *RICO enterprise* and failure to plead a *pattern of racketeering activity*. A related Taft-Hartley secondary boycott claim was dismissed for failure to allege facts sufficient to hold **Brandworkers** as a *labor organization* under the National Labor Relations Act.

The complaint unsuccessfully argued that **Brandworkers** and the **Industrial Workers of the World** labor union formed a criminal conspiracy to extort law-abiding businesses. The claims were as offensive as they were ridiculous given that **Brandworkers'** peaceful advocacy is modeled on the example set by the **Reverend Dr. Martin Luther King, Jr.** and the civil rights movement.

The suit was filed to stifle **Brandworkers'** First Amendment right to educate the consuming public about workers' rights violations at Wild Edibles. To date, around 65 of NYC's most prominent and highest-grossing restaurants have opted to stop serving Wild Edibles seafood until justice is won.

Wild Edibles previously sued **Brandworkers** under an anti-trust theory which was dismissed and derided as a *sham* by the federal district judge. The company has also fired or forced out twelve workers and painted fake corporate names and addresses on its commercial trucks to avoid accountability for its exploitative practices.

The RICO law is the flavor-of-the-month for the anti-worker lawyering community. The *Justice at Smithfield campaign* was recently hit with an adverse summary judgment decision in a RICO case. However, in a remarkable display of strategic jujitsu by the campaign, the lawsuit subsequently settled on the first scheduled day of trial and the workers have since voted to go union pursuant to the election process created by the settlement agreement. **UNITE HERE** and other labor defendants recently defeated a large RICO lawsuit from the anti-union Cintas uniform company.

Lawyers and organizers concerned about being hit with RICO litigation are encouraged to contact **Brandworkers** to share legal resources and strategies. Campaigns that properly prepare for and deal with RICO lawsuits will find that they need not interfere with organizing and, on the contrary, can be used as a platform to expose the lack of respect for free speech and free association displayed by corporate RICO plaintiffs.

As for the workers of Wild Edibles, they were absolutely undeterred by the baseless lawsuit and their resolve remains as strong as ever. You can help the workers of Wild Edibles as they advance their struggle for fairness and opportunity at [www.Brandworkers.org](http://www.Brandworkers.org).

## Labor Law for the Rank & Filer: Building Solidarity While Staying Clear of the Law

by Staughton Lynd and Daniel Gross

**Lynd and Gross** have completely revised and expanded this valuable resource, recently out from **PM Press**. The provocative new text blends hard-hitting and cutting-edge legal strategies with a compelling theory of worker-led change from below. The authors blend case law, personal organizing and legal battles, and stories from other organizers to illuminate need-to-know legal principles and empower workers to fight to win.

"As valuable to working persons as any hammer, drill or office machine, **Labor Law for the Rank & Filer** is a damn fine tool empowering workers who struggle to realize their basic dignity in the workplace while living through an era of unchecked corporate greed." **John Philo**, Legal Director, **Sugar Law Center for Economic and Social Justice**

Purchase **Labor Law for the Rank & Filer** for \$10 online at [https://secure.pmpress.org/index.php?l=product\\_detail&p=57](https://secure.pmpress.org/index.php?l=product_detail&p=57)

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and throughout southern California.

Manchester Hyatt housekeepers clean about twice as many rooms as their counterparts at the other Hyatt hotel in San Diego. Across the hotel industry, increasing workloads have put a greater strain on housekeepers; work speedups have led to increasing injury rates. According to the Department of Labor, injury rates for hotel workers are 40% higher than the service sector average. Hotel housekeeper injuries are debilitating. Back injuries, housemaids' knee (bursitis), and shoulder pain can lead to permanent disability. Numerous studies have shown that unreasonable workloads are a serious occupational health issue.

In a recent survey of more than 600 hotel housekeepers in the U.S. and Canada, 91% said that they suffered work-related pain. Of those who reported workplace pain: 77% said their workplace pain interfered with routine activities, two out of every three workers visited their doctor to deal with workplace pain, and 66% took pain medication just to get through their daily quota

Contact **Powell DeGrange UNITE HERE Local 30** with questions about this boycott at (619) 516-3737 at extension 323 or [pdegange@unitehere.org](mailto:pdegange@unitehere.org).

# Global Workers Justice Alliance - Accessing Justice Across Borders

by Griselda Vega Muñoz, Global Workers Justice Alliance

Have a client that returned to Mexico for a family emergency but you need them to complete some interrogatories? In the middle of discovery and need to depose your client, whose H-2B visa expired and is now back in Guatemala? Or simply trying to track down some migrant clients you represented to disburse the settlement proceeds, but they are all back in Mexico?

These are a few examples of the many challenges that US attorneys face when representing migrant workers in transnational employment litigation. Some attorneys find it cost-prohibitive to keep in contact with or track clients down when the case goes to trial and forgo representing them entirely. **Global Workers Justice Alliance** was created to help advocates effectively and efficiently represent migrant clients in employment cases with its cross-border network of advocates and resources.

## Who is Global Workers?

Founded in 2005 by NLG Labor and Employment committee member **Cathleen Caron**, Executive Director, **Global Workers** combats worker exploitation by promoting portable justice - the right and ability of transnational migrants to access justice in the country of employment even after they have departed. Without portable justice migrant workers who leave the United States are essentially forced to forfeit their rights to health care, fair wages and just working conditions.

**Global Workers** has established *The Defender Network*, a group of experienced human rights lawyers and advocates in the migrant sending countries. *The Defender Network* was launched in Southern Mexico and Guatemala; until **Global Workers** expands the **Network** to additional countries, it will assess cases outside of this geographic area on a case-by-case basis.

## What does Global Workers do?

*The Defender Network* assists with:

- \* Case Facilitation,
- \* Education of migrants on their labor rights before they migrate,
- \* Identification of labor cases for workers who may not have received assistance in the U.S. before they return to their home country, and
- \* Identification and filing of additional claims the worker may have in their home country due to the violation.

The **Case Facilitation** process begins by first analyzing the US advocate's specific need, after which **Global Workers** will partner them with a **Defender** where their clients are located. The US advocate will then work directly with the **Defender** to execute the specific case facilitation assignment. Too often, communication complications result in a client missing a deadline and losing their chance for justice. By utilizing the assistance of local human rights organizations, the **Defender**

**Network** allows US attorneys to have more direct contact and communication to the abused workers. Moreover, US litigators can get key local support from such organizations to make their transnational cases more efficient and, ultimately, more effective.

Confronted with the difficulties of reaching workers who had returned to Mexico, one advocate noted the critical role **Global Workers** played:

After we settled a FLSA collective action on behalf of hundreds of H-2A workers from Mexico, we faced the daunting task of obtaining claim forms from workers who had returned to their homes and could not be reached by letter or telephone. **Global Workers** provided a local partner in Oaxaca who accompanied us in outreach to indigenous villages and helped us obtain claim forms from workers we could not otherwise have reached. Without that assistance from **Global Workers** and the local partner, the workers would not have obtained the compensation they will now receive. - *Advocate, Seattle, WA*

Other services include: **Locating Clients**: with whom US advocates have lost touch or finding additional clients with similar claims; **Interrogatories**: can either work with the client to fully execute interrogatories or provide access to office phones; **Witness Affidavits**: can locate and interview local witnesses; and **Document Collection**: can obtain birth certificates and other documents only available in the country of origin.

**Global Workers** staff provides lectures and training on transnational litigation issues and has written a **Transnational Litigation Manual**, presented at the **National Farmworker Conference** in November 2008, which describes some strategies to overcome transnational litigation challenges. **Global Workers** has additional resources regarding low-wage temporary workers in the US on its website

## Why Work with Global Workers:

**Global Worker Defenders** provide a reliable, trusted, on-the-ground link to your clients that will make your transnational cases more efficient and, ultimately, more effective. As geographic, political and cultural insiders, we can maneuver in international communities with an ease difficult for US advocates to obtain in a short amount of time. Moreover, by educating workers before they migrate to the US on their legal rights and resources, the workers increase their ability to find legal support in the US if they suffer labor exploitation.

**Global Workers** looks forward to working with you and helping you with your transnational litigation needs. For more information please contact:

## Global Workers Justice Alliance

113 University Place 8th floor, New York, NY 10003  
(917) 238-0979 or [info@globalworkers.org](mailto:info@globalworkers.org)  
See our website at [www.globalworkers.org](http://www.globalworkers.org)

## Tenth Annual Cuba Visit Expresses Hope for Real Change

by Joan Hill & Dean Hubbard, L&EC members

It seemed appropriate that the 10th National Lawyers Guild [NLG] labor delegation to Cuba began not only during the celebration of the 50th anniversary of the Cuban revolution, but on Valentine's Day. Small but concrete overtures by the Obama administration and promising responses by the Cuban government gave delegates a sense that the Labor & Employment Committee's [L&EC] long-term efforts to help woo the US into ending decades of abuse of its socialist "ex-" 90 miles to the south may finally be generating some real movement towards reconciliation.

Delegates expressed hope for fundamental change, promising to continue efforts to normalize travel, remittances, and trade relations – to end the blockade. As well, delegates recommitted to help end the illegal incarceration of the Cuban Five.

The trip began with a two-day international conference in Havana – *In Defense of Labor Rights and Social Security and in Opposition to Neoliberal Policies*. Sponsored by the American Association of Jurists and the Association of Latin American Labor Lawyers, the progressive inter-hemispheric bar associations with which the NLG and the L&EC are affiliated, it was attended by labor lawyers and trade unionists from Cuba, Brazil, Argentina, Colombia, Mexico, Ecuador, Great Britain, Spain and the United States. Panelists addressed the role of the Cuban labor movement in the enormous changes currently taking place in Cuba, protecting migrant workers' rights, the rights of disabled workers, and the rights of contingent workers, among other topics. The conference and informal meetings provided opportunities for cross-border coordination and insight into the strategies of colleagues advocating for workers in various countries at different developmental stages.

As with prior delegations, the international conference was followed by three days of field research, organized with the help of the Cuban Trade Union Federation [CTC]. This year, due in part to the devastation caused by four separate hurricanes in outlying provinces, the research involved visiting workplaces and interviewing workers, union leaders, and labor lawyers in the cities within Havana Province, an area covering hundreds of square miles. This research afforded the delegation the opportunity to meet with school teachers, health care workers for developmentally disabled children, farm workers, tobacco workers and trade union officers from the Province. Of particular interest was a visit to an education center where rank and file members of the CTC have the opportunity to spend several weeks *in residence* to develop and expand their union skills. Delegates also had a brief voluntary labor experience planting yucca at an agricultural cooperative.

The L&EC delegation will continue its study of the realities of workers in Cuba next year. Information regarding the fully-licensed program can be obtained after September 1, 2009 from Bob Guild at Marazul Charters [bguild@marazul.com](mailto:bguild@marazul.com) or Marazul program consultants Dean Hubbard [deanhub@gmail.com](mailto:deanhub@gmail.com) and Joan Hill [johill@usw.org](mailto:johill@usw.org). A copy of the 2009 Report will be posted to the L&EC website at [http://nlg-laboremploy-comm.org/index.php?pr=International\\_Labor](http://nlg-laboremploy-comm.org/index.php?pr=International_Labor).

## CA State Bar Fails to Honor Boycott at Manchester Grand Hyatt in San Diego

by Fran Schreiber, L&EC member

The California State Bar Board of Governors is refusing to honor a labor boycott of the Manchester Grand Hyatt in San Diego where it will hold its September, 2009, annual convention. The Bar claimed it was illegal for it to take a position on politically divisive issues. However, this is a labor issue, although with a political component, and the Bar's arguments against the boycott is slanted avoiding the real issue: that the Manchester Grand Hyatt is unfair to workers. The Bar should do the right thing and not patronize a business that fuels injustice and discrimination within the community. Other legal associations have cancelled hotel contracts due to unfair treatment of workers and the State Bar should do so as well.

The Conference of Delegates of the California Bar Association, the organization which addresses policy issues, cancelled its meetings at the Hyatt. And the NLG and L&EC will honor the boycott and picket lines as well.

On July 10, 2008, a coalition led by the San Diego labor movement and the LGBT community called for a boycott of the Manchester Grand Hyatt. The Manchester Hyatt is a non-union facility and should never have been chosen as the site of a State Bar convention. Not only is it unfair to its workers, but also the owner of the hotel contributed \$125,000 to support Proposition 8, the ballot initiative to ban same-sex marriage. The LGBT community and UNITE HERE are jointly fighting for equality for gay and lesbian couples and justice for the workers at his Hyatt hotel.

Readers may contact the State Bar Board of Governors asking it to recognize the labor dispute and the impact of forcing conference attendees to cross picket lines. In doing so, readers will stand with the many local and interest-based bar associations, sections and firms that have taken a stand and vowed not to patronize the hotel. Among others, these groups include the NLG, Beverly Hills Bar Association, Bay Area Lawyers for Individual Freedom, the Bar Association of San Francisco, the Santa Clara County Bar Association, and the Lesbian and Gay Lawyers Association of Los Angeles. Readers may want to inform providers of MCLE and other products at the boycotted location during the convention that they will not cross a picket line.

A labor dispute exists at Manchester Hyatt Hotel. UNITE HERE Local 30 is concerned about housekeeping workloads since worker room quotas doubled to 30 rooms per shift in 2006. At that time housekeepers protested outside the hotel during their lunch breaks. Though the housekeepers themselves are no longer protesting during their breaks, we understand the workloads have not changed. There are regular actions and picket lines at the hotel by labor, and as recently as *Cesar Chavez day*, hundreds of San Diego trade-unionists demonstrated in front of the hotel. The boycott is officially sanctioned by the San Diego Labor Council and the California State Federation of Labor AFL-CIO. Since the Manchester Hyatt is the largest hotel in southern California, these unjust workloads, if unchecked, may drive down workplace standards for all hotels in the industry in San Diego

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## Harvest of Blame - Murder in the 105th Degree

It is important to recognize organized labor's historic debt to the farm worker which includes the passage of the National Labor Relations Act of 1935. The Act only became law because legislators from the South insisted on the exclusion of those employed in agriculture. Later, as farm laborers spearheaded the passage of the California Agricultural Relations Act in 1975, attention was focused on the brutal short-handled hoe and the seven-year battle – which included a California Supreme Court case – to ban this cruel tool of oppression. That struggle helped to ignite concern over worker safety throughout California. Farm workers are often the *canary in the coal mine*.

Today, as the summer harvest season begins and the murderous greed of the growers continues unabated, we must appreciate the dangers and opportunities presented to all workers by the farm workers' plight. This is especially true given the economic crisis in California where the growing unemployment rate brings deadly pressures on those still *lucky* enough to have jobs. History proves that some of the worst occupational disasters occur precisely in such times. For example, in the midst of the Great Depression, the Gauley Bridge Disaster of 1927 claimed almost 1,000 lives as workers tunneled through a mountain of pure silica. Desperate for work, jobless men walked to their deaths as hundreds of the nearly dead were hauled away. Today, the increased risks to worker safety and health in places like Fresno County – which last month reported a staggering 17% jobless rate – should be viewed in the context of this history, as should the central role of farm labor in California, the nation's largest agriculture producing state.

What, then, are the tasks as another deadly summer looms? **First**, we must not let victims go unrepresented and we must assure their representation is excellent. In the vast majority of cases, there are no lawyers to handle these difficult and expensive third party lawsuits and even fewer who will take on the related workers' compensation cases. Bar associations and the Board of Governors of the State Bar can assure resources are provided to legal services programs who represent low-wage workers and legal services support centers that have the expertise to handle these matters. **Second**, restrictions on legal services programs against representing workers in tort and workers' compensation matters and restrictions against representing undocumented workers must be lifted by Congress. **Third**, we must demand that economic stimulus funds and state resources be allocated to beef up local prosecutors' offices and OSHA so that these deaths can be properly investigated and charged as the homicides they are. **Fourth**, we can and must demand that funds be allocated to hire more OSHA compliance officers and quickly improve the heat-related illness regulations.

I remember in 1977 when OSHA came into U.S. Steel's South Works in Chicago, set up an office and staffed it round the clock and undertook a six-month wall-to-wall inspection that resulted in the largest OSHA fine to date ever assessed and a Pulitzer Prize winning story in the Chicago Sun-Times, the famous *Working Wounded* series. No less a commitment is required this summer if we are to prevent California's Central Valley from once again becoming a slaughterhouse.

In 1960, the legendary Edward R. Murrow awakened the conscience of the country with his courageous Thanksgiving Day report on farm labor in America, *Harvest of Shame*. Almost fifty years later, it's time to place responsibility for the needless deaths inflicted on those who put food on our tables; time to point a finger of civil and criminal liability at those who kill for profit. It falls to us to insure for 2009, at long last this time, a *harvest of blame*."

**Anthony Prince**, a lifelong trade unionist and former Steelworkers Union safety and health chair, represents workers in a wide variety of claims throughout California. He is currently running for District 3 Representative to the Board of Governors of the California State Bar. He can be reached at [princelaw@sbcglobal.net](mailto:princelaw@sbcglobal.net) or through his website at [www.prince-law.com](http://www.prince-law.com).

**Editor's Note:** (continued) *Vasquez Jimenez was born in a village deep in Mexico's Sierra Madre range and migrated to California's agricultural basin last year to look for work and live with her fiancé. The couple found jobs pruning grapes in a Stockton-area vineyard owned by West Coast Grape Farming, Inc., which contracted with Merced Farm Labor for its work force.*

*After she collapsed, her fiancé, Florentino Bautista, said Vasquez Jimenez's supervisor recommended she rest in a hot van and be revived with rubbing alcohol before Bautista could take her to a Lodi medical clinic, almost two hours later. Doctors later realized she was two months pregnant. Relatives said she was making \$8 per hour that day on a 9.5-hour shift – more than four hours over the state limit for minors working during business days.*

*Vasquez Jimenez's aunt said she hoped the charges would encourage safer labor conditions on farms.*

*Last year, the California Division of Occupational Safety and Health fined Merced Farm Labor \$262,700 for violating eight workplace safety rules, the highest fine ever issued to a California farming operation. The agency said some of the violations were intentional, and the company surrendered its license soon thereafter.*

*In a separate civil complaint filed Thursday, the DA charged Colunga, the farm labor contractor and West Coast Grape Farming, Inc. with engaging in unfair business practices by violating numerous provisions of state labor and workplace safety codes. Prosecutors are seeking between \$27,500 and \$5.5 million in civil penalties. The complaint remains open to charge additional defendants in the future, authorities said.*

*Authorities say West Coast Grape Farming is a division of Bronco Wine Co., which makes the popular cut-price wine known as Two Buck Chuck.*

**California – which in 2005 implemented the country's first heat-illness standard – requires that farms and contractors give workers water (which earlier regulations already required), allow them to request breaks (farm workers often work piece rate and even hourly workers fear making such requests), have shade available (although not for all workers simultaneously), have emergency plans in place, and provide training. The regulations apply only to outdoor locations and are inadequate.**

*In mid-April, 2009, as temperatures soared again in the valley, Cal/OSHA officials were stepping up enforcement to protect workers from heat-related illness. So far this year, state officials say they have conducted 380 heat safety inspections and cited 145 businesses for not having heat-illness prevention plans in place.*

# Update from the Sugar Law Center

by John Philo, Maurice and Jane Sugar Law Center and L&EC member

Over the past months, the **Maurice and Jane Sugar Law Center for Economic and Social Justice** has seen accelerated work under existing projects and new initiatives to provide assistance to displaced and low wage workers.

In the first quarter of this year and last quarters of 2008, we've seen a doubling of the number of workers affected by mass layoffs occurring throughout the nation. The United States Congress and state legislatures have expressed increased interest in strengthening laws requiring advance notice to workers of impending job loss. In response, the **Sugar Law Center** has developed issue briefs and model legislation and has been engaged in ongoing consultation with Congressional and state legislative staff persons and with local advocates. The **Sugar Law Center** is advocating reform of existing legislation at the federal level and new legislation at the state level that would strengthen notice requirements, expand coverage to more workers, and provide more meaningful penalties when workers' rights are violated. Additionally, the **Center** has seen a several fold increase in the number of workers contacting our office. We have provided informal advice to dozens of workers to protect their rights and have initiated five new multi-claimant lawsuits since the beginning of the year in cases where advance notice was not provided.

Through a recent grant and in an effort to expand the scope of services offered to displaced workers, the **Sugar Law Center** began representation of workers at contested hearings before the state unemployment insurance agency. The **Law Center** is representing workers in appeals where, due to budget constraints, the state's advocacy program has been curtailed such that workers are unable to receive the services of an appointed advocate. To date, all workers have prevailed in their appeals where the **Law Center** became involved.

The **Sugar Law Center** has also seen an expansion of its work to protect the wages of undocumented and low wage

workers. Through ongoing relationships with the **Centro Obrero** workers center, the **Restaurant Opportunities Center - Michigan**, and **Centro Multicultural La Familia**, the **Sugar Law Center** has aided efforts related to paycheck issues through advice regarding leafleting and picketing rights, legal observing at demonstrations, research regarding the filing of complaints against an employer's business licenses, and direct assistance to workers in filing wage complaints through the state labor department. And, through our ongoing project with the **United Food and Commercial Workers** union, the **Law Center** has now provided consultation to over three hundred workers seeking to empower the workers in the protection of their employment rights. The **Sugar Law Center** thanks all its cooperating attorneys for their notable efforts on behalf of Wal-Mart workers throughout the course of this project.

Along with **Legal Momentum** (formerly NOW Legal Defense), we have also undertaken the representation of a woman firefighter from Port Huron, Michigan who was denied light duty status during her recent pregnancy. Our client, like many women firefighters and police officers across the nation, was denied light duty status despite the availability of these positions within her department and despite such accommodations for male employees who had become ill or injured in the past. The case is presently pending before the EEOC and their investigation is ongoing.

Those interested in contributing to the **Center's** efforts or who would like to receive the e-newsletter on WARN Act issues are encouraged to contact **John Philo** or **Tova Perlmutter** at **Maurice and Jane Sugar Law Center for Economic and Social Justice**, 2727 Second Avenue, Suite 327, Detroit MI 48201, phone (313) 962-6540, fax (313) 962-4492, email [mail@sugarlaw.org](mailto:mail@sugarlaw.org). To learn more, visit the website at [www.sugarlaw.org](http://www.sugarlaw.org).

## Employee and Union Member Guide to Labor Law

### Valuable Asset for Attorneys and Unions

This 3-volume treatise covers topics as diverse as the ADA, the FLSA, ERISA, bankruptcy, and whistleblowers' rights, as well as bread-and-butter labor law issues, such as the right to strike and the duty to bargain. The Guild has always prided itself on producing a manual for activists: we not only approach the issues as would lawyers for unions and employees, but we also focus on those strategies and tactics that have proven to be useful in defending workers' rights.

**Everyone reading this message should own this treatise. You simply cannot find this scope of coverage, with its focus on workers' rights, anywhere else.**

### Attorneys Needed to Update Chapters

We currently need volunteers to update the following chapters: Chapter 2: *Opposing Discriminatory Discharges*; Chapter 9: *Pensions and Other Employee Benefits* (last updated summer 2007); and Chapter 14: *Representing Unions and Employees in Bankruptcy Cases*. Contact editor **Elise Gautier** at [elise.gautier@comcast.net](mailto:elise.gautier@comcast.net). Authors are expected to update their chapters once a year, by either early January or July. We submit two sets of updates per year. Not only will we be eternally grateful for your help, but those who make significant contributions to the treatise will receive a complimentary copy of it and the updates for as long as they continue contributing.

Purchase the 3-volume treatise at Thomson/West - [www.westgroup.com](http://www.westgroup.com) - enter "employee" and "union" in the product search box or call (800) 344-5009. The **NLG Labor & Employment Committee** receives a percentage of the royalties.

**National Lawyers Guild L&EC MEETING  
during the 2009 AFL-CIO LCC in Miami Beach**

**Sunday - May 10, 2009 - 2:00 - 4:20 pm**

We will post a meeting notice with the location at our table near the LCC Registration.

**NLG Labor & Employment Committee BREAKFAST at the LCC  
Tuesday - May 12, 2009 - 7:00 - 8:00 a.m.**

**Leah Fried, UE Field Organizer**

**Polly Halfkenny, UE General Counsel**

**Republic Workers' Sit-down**

**- Legal & Organizational Strategies**

to help us order food, please

**RSVP to** [fcs@kazanlaw.com](mailto:fcs@kazanlaw.com)

(510) 302-1071 or (510) 333-9907 cell

**Fontainebleau Hotel**

4441 Collins Avenue, Miami Beach

Glitter Room - 4th floor

**National Lawyers Guild**

**Labor & Employment Committee**

c/o Kazan McClain Lyons Greenwood & Harley

171 - 12th Street

Oakland, CA 94607

Save the date - National Lawyers Guild Convention - October 13 - 18, 2009 - <http://nlg.org/convention/>  
Marriott Renaissance - 515 Maiden Street - Seattle, WA