

Richard W. Kuhling
Devra S. Hermosilla
PAINE, HAMBLIN, COFFIN, BROOKE
& MILLER LLP
717 West Sprague Avenue, Suite 1200
Spokane, WA 99201-3505
(509) 455-6000

Lori Jordan Isley
Mirta Laura Contreras
COLUMBIA LEGAL SERVICES
6 South Second Street, Suite 600
Yakima, WA 98901
(509) 575-5593

Joachim Morrison
COLUMBIA LEGAL SERVICES
300 Okanogan Avenue, Suite 2A
Wenatchee, WA 98801
(509)662-9681

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-FARIAS, JOSE F.
SANCHEZ, RICARDO BETANCOURT, and
all other similarly situated persons
Plaintiffs,

vs.

GLOBAL HORIZONS, INC., MORDECHAI
ORIAN, JANE DOE ORIAN, GREEN ACRE
FARMS, INC, JIM MORFORD, KATHERINE
M. MORFORD, VALLEY FRUIT
ORCHARDS, LLC, JOHN VERBRUGGE,
DESIREE C. VERBRUGGE, and PLATTE
RIVER INSURANCE COMPANY,

Defendants.

CLASS ACTION

No. 05 CV 3061 MWL

PLAINTIFFS' THIRD
AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
DAMAGES

PRELIMINARY STATEMENT

1. Federal law requires that United States agricultural workers be given preference over all foreign agricultural workers that employers seek to import under the federal H-2A program. This is a class action brought by three United States farm workers from the Yakima Valley who were illegally denied or terminated from agricultural employment in 2004 because defendants Global Horizons, Inc. (“Global”), Green Acre Farms, Inc. (“Green Acre”), and Valley Fruit Orchards, LLC (“Valley Fruit”) systematically and intentionally preferred H-2A laborers from Thailand in violation of federal and state law.

2. Plaintiffs seek to bring class claims for violations of the Migrant and Seasonal Agricultural Worker Protection Act (“AWPA”), 29 U.S.C. §§ 1801 et seq., including: providing false and misleading information concerning the terms and conditions of employment; failure to comply with the working arrangement; failure to pay wages as promised; and failure to provide adequate written pay statements.

3. Plaintiffs seek to bring class claims for violations of the Farm Labor Contractors Act (“FLCA”), Chapter 19.30 RCW et seq., including: engaging in farm labor contracting activity without a license; failure to adequately disclose the terms and conditions of employment; providing false and misleading information

1 about the terms, conditions, and existence of employment; failure to comply with
2 the terms and conditions of employment; failure to pay wages as promised; and
3 failure to provide adequate written pay statements.

4
5 4. Plaintiffs seek to bring class claims for violations of RCW 49.52.050
6 for willful withholding of wages.

7 5. Plaintiffs also seek to bring class claims for violations of 42 U.S.C. §
8 1981 and the Washington Law Against Discrimination (“WLAD”), Chapter 49.60
9 RCW et seq., including: discrimination in hiring, terms and conditions of
10 employment, and firing based on race and national origin.

11
12 **JURISDICTION**

13 6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
14 1331 (Federal Questions).

15 7. This Court has jurisdiction over this action pursuant to 29 U.S.C. §
16 1854 (AWPA).

17
18 8. This Court also has jurisdiction over this action pursuant to 28 U.S.C.
19 § 1367 (Supplemental Jurisdiction).

20 //

21 //

PARTIES

9. At all times relevant to this complaint, the plaintiffs were all either seasonal agricultural workers within the meaning of 29 U.S.C. § 1802 (10)(A) or migrant agricultural workers within the meaning of 29 U.S.C. §1802(8).

10. Plaintiff Ricardo Betancourt sought and was unlawfully denied employment with defendants Global, Green Acre, and Valley Fruit in 2004.

11. Plaintiff Jose F. Sanchez (“Jose Sanchez”) worked for defendants Global and Green Acre at Green Acre Farms from January 2004 through August 2004.

12. Plaintiff Jose Guadalupe Perez-Farias (“Jose Perez”) worked for defendants Global and Valley Fruit at Valley Fruit Orchards from February 2004 through August 2004.

13. Plaintiffs and the class they seek to represent are primarily of Mexican or other Hispanic ancestry.

14. Defendant Global is a California Corporation with its principal place of business in Los Angeles, California.

15. Defendant Mordechai Orian (“Orian”) is the president and sole shareholder of Defendant Global.

1 16. Defendant Orian committed or authorized the acts and omissions
2 alleged herein to have been committed by Defendant Global.

3 17. Defendants Global and Orian are agricultural employers as defined by
4 29 U.S.C. § 1802(2) and RCW 19.30.010(4).
5

6 18. Defendant Global is a farm labor contractor as defined by 29 U.S.C. §
7 1802(7) and RCW 19.30.010(2).

8 19. On information and belief, Defendants Orian and Jane Doe Orian are
9 individuals who reside in Malibu, California.
10

11 20. On information and belief, at all times relevant to this action
12 Defendants Orian and Jane Doe Orian were married to each other.

13 21. On information and belief, all acts or omissions alleged herein,
14 committed by Defendant Orian, were committed on behalf of the marital
15 community.
16

17 22. Defendant Green Acre is a Washington Corporation with its principal
18 place of business in Harrah, Washington.

19 23. Defendant Jim Morford represents himself as the owner of Defendant
20 Green Acre and contracted with Global to provide workers for Green Acre in 2004.
21

22 24. Defendant Jim Morford committed or authorized the acts and
23 omissions alleged herein to have been committed by Defendant Green Acre.

1 25. Defendants Green Acre and Jim Morford are agricultural employers
2 as defined by 29 U.S.C. § 1802(2) and RCW 19.30.010(4).

3 26. Defendant Global had actual and apparent authority to act on behalf of
4 defendant Green Acre to recruit, hire, employ, and terminate the employment of
5 workers on the property of Green Acre.
6

7 27. Defendants Jim Morford and Katherine M. Morford are individuals
8 who reside in Washington.

9 28. On information and belief, at all times relevant to this action
10 Defendants Jim Morford and Katherine M. Morford were married to each other.
11

12 29. All acts or omissions alleged herein, committed by Defendant Jim
13 Morford, were committed on behalf of the marital community.

14 30. Defendant Valley Fruit is a limited liability Washington Company
15 with its principal place of business in Wapato, Washington.
16

17 31. Defendant John Verbrugge represents himself as the owner and a
18 partner of Defendant Valley Fruit and contracted with Global to provide workers
19 for Valley Fruit in 2004.

20 32. Defendant John Verbrugge committed or authorized the acts and
21 omissions alleged herein to have been committed by Defendant Valley Fruit.
22
23

1 33. Defendants Valley Fruit and John Verbrugge are agricultural
2 employers as defined by 29 U.S.C. § 1802(2) and RCW 19.30.010(4).

3 34. Defendant Global had actual and apparent authority to act on behalf of
4 defendants Valley Fruit to recruit, hire, employ, and terminate the employment of
5 workers on the property of Valley Fruit.
6

7 35. Defendants John Verbrugge and Desiree C. Verbrugge are individuals
8 who reside in Washington.

9 36. On information and belief, at all times relevant to this action
10 Defendants John Verbrugge and Desiree C. Verbrugge were married to each other.
11

12 37. All acts or omissions alleged herein, committed by Defendant John
13 Verbrugge, were committed on behalf of the marital community.

14 38. Defendant Platte River Insurance Company ("Platte River") is a
15 Nebraska corporation with its principal place of business in City of Madison,
16 Wisconsin.
17

18 39. Defendant Platte River financed a surety bond in the amount of
19 \$20,000 for defendant Global for the Washington state farm labor contractor
20 licensing period from October 1, 2004 through December 31, 2004.

21 ///

22 ///

1 40. Defendant Platte River financed an additional surety bond in the
2 amount of \$10,000 for defendant Global for the period from July 21, 2004 through
3 December 31, 2004.
4

5 **CLASS ACTION ALLEGATIONS**

6 A. PLAINTIFF CLASS – U.S. RESIDENT WORKERS

7 41. Plaintiffs bring this action on their own behalf and on behalf of the
8 class of persons similarly situated, pursuant to Federal Rules of Civil Procedure
9 23(a), (b)(2) and (b)(3), consisting of all workers who were U.S. residents and who
10 sought employment through defendant Global Horizons to work at either Green
11 Acre Farms or Valley Fruit Orchards in 2004, and all U.S. residents who, in the
12 future, seek employment with or obtain employment with Global, Green Acre, or
13 Valley Fruit. Plaintiffs seek only declaratory and injunctive relief pursuant to Fed.
14 R. Civ. P. 23(b)(2) for workers who seek or obtain employment with defendants in
15 the future. Plaintiffs also seek certification of three subclasses as set forth below.
16

17 42. The U.S. Resident class is so numerous that joinder of all members is
18 impracticable. The exact size of the class is not known; however on information
19 and belief the class size consists of at least 600 persons and an additional
20 undetermined number of U.S. resident workers who seek or obtain employment
21 with the defendants in the future.
22
23

1 43. Representative plaintiffs are represented by experienced counsel who
2 will vigorously prosecute the litigation on behalf of the class.

3 44. Defendants have acted or refused to act on grounds generally
4 applicable to the class, thereby making declaratory and injunctive relief appropriate
5 with respect to the class as a whole.
6

7 45. Questions of law and fact common to the members of the class
8 predominate over any questions affecting only individual members and a class
9 action is superior to other available methods for the fair and efficient adjudication
10 of the controversy because:
11

- 12 a. Members of the class do not have an overriding interest in
13 individually controlling the prosecution of separate actions;
14 b. No litigation concerning this controversy has been commenced
15 by any member of the class;
16 c. Concentration of the litigation in this forum is desirable in order
17 to have all claims resolved in one case; and,
18 d. A class action can be managed without undue difficulty because
19 the issues presented are common to the class, defendants are
20 required to maintain detailed records concerning each member
21
22
23

1 of the class, and plaintiffs' counsel have experience in
2 prosecuting cases of this nature.

3 46. Common questions of law and fact include:

- 4 a. Whether defendants Global, Green Acre and Valley Fruit
5 provided false and misleading information concerning the terms
6 and conditions of employment in violation of 29 U.S.C. §
7 1831(e), 29 U.S.C. § 1821(f) and RCW 19.30.120(2);
8
9 b. Whether defendant Global was an unlicensed farm labor
10 contractor until October 2004 in violation of RCW 19.30 *et*
11 *seq.*;
12
13 c. Whether Green Acre and Valley Fruit knowingly used the
14 services of defendant Global, an unlicensed farm labor
15 contractor, making them personally, jointly, and severally liable
16 for violations of the Farm Labor Contractors Act, RCW 19.30
17 *et. seq.*; and
18
19 d. Whether defendant Global failed to provide adequate
20 disclosures of the terms and conditions of employment in
21 violation of RCW 19.30.110(7).
22
23

1 47. The claims of the representative plaintiffs Ricardo Betancourt, Jose
2 Sanchez and Jose Perez are typical of the claims of the plaintiff class they seek to
3 represent and they will fairly and adequately protect the interests of the class.
4

5 B. PLAINTIFF SUBCLASS I – DENIED WORK

6 48. Plaintiff Ricardo Betancourt seeks certification of a subclass of all
7 workers who were U.S. residents and who sought and were denied employment
8 through defendant Global to work at either Green Acre Farms or Valley Fruit
9 Orchards in Washington State in 2004, and all U.S. residents who, in the future,
10 seek employment with or obtain employment with Global, Green Acre, or Valley
11 Fruit (Denied Work subclass). Plaintiffs seek only declaratory and injunctive relief
12 pursuant to Fed. R. Civ. P. 23(b)(2) for workers who seek or obtain employment
13 with defendants in the future.
14

15 49. The Denied Work subclass is so numerous that joinder of all members
16 is impracticable. The exact size of the class is not known; however, on
17 information and belief the class consists of approximately 300 persons and an
18 additional undetermined number of U.S. resident workers who seek or obtain
19 employment with the defendants in the future.
20

21 50. Questions of law and fact common to the members of the Denied
22 Work subclass predominate over any questions affecting only individual members
23

1 and a class action is superior to other available methods for the fair and efficient
2 adjudication of the controversy.

3 51. Questions of law and fact common to the Denied Work subclass
4 include those set forth in paragraph 30 and:
5

- 6 a. Whether defendants Global, Green Acre, and Valley Fruit
7 violated the working arrangement by failing to offer
8 employment to plaintiffs in violation of 29 U.S.C. § 1832(c), 29
9 U.S.C § 1822(c), and whether the same conduct violated
10 agreements with plaintiffs pursuant to RCW 19.30.110(5);
11
12 b. Whether defendant Global unlawfully discriminated against
13 plaintiffs based on race in violation of 42 U.S.C. § 1981; and,
14
15 c. Whether defendant Global unlawfully discriminated against
16 plaintiffs based on race, or national origin in violation of RCW
17 49.60.180.

18 52. The claims of the representative plaintiff Ricardo Betancourt are
19 typical of the claims of the Denied Work subclass he seeks to represent and he will
20 fairly and adequately protect the interests of this subclass.

21 ///

22 ///

C. PLAINTIFF SUBCLASS II – GREEN ACRE

53. Plaintiff Jose Sanchez seeks certification of a subclass of all workers who were U.S. residents and who were employed through defendant Global to work at Green Acre Farms in 2004, and all U.S. residents who, in the future, seek employment with or obtain employment with Global and Green Acre (Green Acre subclass). Plaintiffs seek only declaratory and injunctive relief pursuant to Fed. R. Civ. P. 23(b)(2) for workers who seek or obtain employment with defendants Global and Green Acre in the future.

54. The Green Acre subclass is so numerous that joinder of all members is impracticable. The exact size of the class is not known; however on information and belief the class consists of approximately 150 persons and an additional undetermined number of U.S. resident workers who seek or obtain employment with the defendants Global or Green Acre in the future.

55. Questions of law and fact common to the members of the Green Acre subclass predominate over any questions affecting only individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

56. Questions of law and fact common to the Green Acre subclass include those set forth in paragraph 30 and:

- 1 a. Whether defendants Global and Green Acre failed to comply
2 with the terms and conditions of employment as promised in
3 violation of 29 U.S.C. § 1832(c), 29 U.S.C. § 1822(c) and
4 RCW 19.30.110(5);
5
- 6 b. Whether defendants Global and Green Acre violated the
7 working arrangement by terminating members of the Green
8 Acre subclass before the end of the promised work period in
9 violation of 29 U.S.C. § 1832 (c), 29 U.S.C. § 1822(c) and
10 RCW 19.30.110(5);
11
- 12 c. Whether defendants Global and Green Acres failed to pay
13 workers the wages they were due when they made unlawful
14 deductions for Washington state income tax in violation of 29
15 U.S.C. § 1832(a), 29 U.S.C. § 1822(a), RCW 19.30.110(4), and
16 RCW 49.52.050;
17
- 18 d. Whether defendants Global and Green Acre failed to provide
19 adequate written pay statements in violation of 29 U.S.C. §
20 1831(c), 29 U.S.C. §1821(d) and RCW 19.30.110(8);
21
- 22 e. Whether defendants Global and Green Acre unlawfully
23 discharged members of the Green Acre subclass and

1 discriminated against them in the terms and conditions of
2 employment based on race in violation of 42 U.S.C. § 1981;
3 and,
4

5 f. Whether defendants Global and Green Acre unlawfully
6 discharged members of the Green Acre subclass and
7 discriminated against them in the terms and conditions of
8 employment based on race or national origin in violation of
9 RCW 49.60.180(2) and (3).

10 57. The claims of the representative plaintiff Jose Sanchez are typical of
11 the claims of the Green Acre subclass he seeks to represent, and he will fairly and
12 adequately protect the interests of this subclass.
13

14 D. PLAINTIFF SUBCLASS III – VALLEY FRUIT

15 58. Plaintiff Jose Perez seeks certification of a subclass of all workers
16 who were U.S. residents and who were employed through defendant Global to
17 work at Valley Fruit Orchards in 2004, and all U.S. residents who, in the future,
18 seek employment with or obtain employment with Global and Valley Fruit (Valley
19 Fruit subclass). Plaintiffs seek only declaratory and injunctive relief pursuant to
20 Fed. R. Civ. P. 23(b)(2) for workers who seek or obtain employment with
21 defendants Global or Valley Fruit in the future.
22
23

1 59. The Valley Fruit subclass is so numerous that joinder of all members
2 is impracticable. The exact size of the subclass is not known; however on
3 information and belief the class consists of at least 160 persons and an additional
4 undetermined number of U.S. resident workers who seek or obtain employment
5 with the defendants Global or Valley Fruit in the future.
6

7 60. Questions of law and fact common to the members of the Valley Fruit
8 subclass predominate over any questions affecting only individual members and a
9 class action is superior to other available methods for the fair and efficient
10 adjudication of the controversy.
11

12 61. Questions of law and fact common to the Valley Fruit subclass
13 include those set forth in paragraph 30 and:

- 14 a. Whether defendants Global and Valley Fruit failed to comply
15 with the terms and conditions of employment as promised in
16 violation of 29 U.S.C. § 1832(c), 29 U.S.C. § 1822(c), and
17 RCW 19.30.110(5);
18
- 19 b. Whether defendants Global and Valley Fruit violated the
20 working arrangement by terminating members of the Valley
21 Fruit subclass before the end of the promised work period in
22
23

1 violation of 29 U.S.C. § 1832(c), 29 U.S.C. § 1822(c), and
2 RCW 19.30.110(5);

3 c. Whether defendants Global and Valley Fruit failed to pay
4 workers the wages they were due when they failed to pay the
5 applicable piece rate in violation of 29 U.S.C. § 1832(a), 29
6 U.S.C. § 1822(a), RCW 19.30.110(4), and RCW 49.52.050;

7 d. Whether defendants Global and Valley Fruit failed to provide
8 adequate written pay statements in violation of 29 U.S.C. §
9 1831(c), 29 U.S.C. §1821(d) and RCW 19.30.110(8);

10 e. Whether defendants Global and Valley Fruit unlawfully
11 discharged members of the Valley Fruit subclass or
12 discriminated against them in the terms and conditions of
13 employment based on race in violation of 42 U.S.C. § 1981;
14 and

15 f. Whether defendants Global and Valley Fruit unlawfully
16 discharged members of the Valley Fruit subclass or
17 discriminated against them in the terms and conditions of
18 employment based on race or national origin discrimination in
19 violation of RCW 49.60.180(2) and (3).
20
21
22
23

1 62. The claims of the representative plaintiff Jose Perez are typical of the
2 claims of the Valley Fruit subclass he seeks to represent and he will fairly and
3 adequately protect the interests of this class.
4

5 **STATEMENT OF FACTS**

6 63. Defendant Global acted as a farm labor contractor in Washington
7 State beginning in or before December 2003 through the present date.

8 64. Defendant Global failed to obtain a license to work as a farm labor
9 contractor in Washington State until October 7, 2004.
10

11 65. Defendant Global failed to file a surety bond or other security meeting
12 the requirements of RCW 19.30.040 with the Director of the Department of Labor
13 and Industries until October 1, 2004.

14 66. Defendant Green Acre knowingly used the services of defendant
15 Global, an unlicensed farm labor contractor, from December 18, 2003 through
16 October 6, 2004.
17

18 67. Defendant Valley Fruit knowingly used the services of defendant
19 Global, an unlicensed farm labor contractor, from December 11, 2003 through
20 October 6, 2004.

21 68. On May 10, 2005, the Washington State Employment Security
22 Department sent a Notice of Discontinuation of Employment Services to defendant
23

1 Global for failure to comply with the basic requirements of state law including
2 failure to secure a state farm labor contractor's license.

3 69. On June 3, 2005, the Washington State Department of Labor and
4 Industries sent a Notice of Violation and Assessment of Wages and Penalties to
5 defendant Global for violations of state law including operating as an unregistered
6 farm labor contractor when defendant Global contracted with Green Acre and
7 Valley Fruit.
8

9 70. Defendant Global failed to provide all class members at the time of
10 recruiting or hiring a written statement adequately describing the terms and
11 conditions of employment.
12

13 71. Defendants Global, Green Acre, and Valley Fruit failed to disclose
14 production standards for pruning, thinning, harvesting and other activities in the
15 written statement of the terms and conditions of employment.
16

17 72. A significant number of class members were not fluent or literate in
18 English; the language common to the workers was Spanish.

19 73. Defendant Global failed to provide all class members at the time of
20 recruiting or hiring a written statement describing the terms and conditions of
21 employment in Spanish.
22

23 //

1 **Green Acre Job Order**

2 74. On December 18, 2003, defendant Global submitted to the U.S.
3 Department of Labor (DOL) an application for H-2A workers, attached as Exhibit
4 1 (hereinafter "Green Acre order").
5

6 75. The Green Acre order was also filed with the Washington State
7 Employment Security Department (ESD) Central Office in Olympia, Washington.

8 76. The ESD Central Office referred the Green Acre order to the ESD
9 WorkSource office in Yakima for recruitment of local U.S. workers.
10

11 77. WorkSource Yakima's Employer Services Unit entered the Green
12 Acre order into its computer job data base and posted it on a job board.

13 78. The Green Acre order sought 150 workers to be employed as farm
14 workers at Green Acre from February 2, 2004 through November 5, 2004.

15 79. The Green Acre order stated: "No U.S. worker will be rejected for or
16 terminated from employment for other than a lawful job-related reason."
17

18 80. The Yakima WorkSource office referred more than 150 U.S. workers
19 to defendant Global to fill the job openings on the Green Acre order.

20 81. On January 21, 2004, defendant Global sent a letter to DOL stating it
21 had made offers of employment to U.S. workers for all 150 jobs.
22

23 82. In the January 21, 2004 letter, defendant Global further informed

1 DOL that additional U.S. workers were accepted as referrals in case some of the
2 150 U.S. workers did not show up for work or abandoned their employment.

3 83. In the January 21, 2004 letter, defendant Global also noted that it may
4 request from DOL a re-determination of need if sufficient U.S. workers did not
5 report for work or remain on the job.
6

7 84. In the January 21, 2004 letter, defendant Global also requested that
8 DOL terminate recruitment of U.S. workers for the Green Acre order because all
9 150 jobs were filled.
10

11 85. On January 22, 2004, DOL denied defendant Global's request for
12 H-2A workers because the Green Acre order had been filled by U.S. workers.

13 86. On February 27, 2004, defendant Global sent a letter by facsimile and
14 overnight mail to DOL stating that only 7 U.S. workers, less than 5% of the
15 original U.S. workforce hired by defendant Global, remained employed under the
16 Green Acre order.
17

18 87. In the February 27, 2004 letter, defendant Global further told DOL
19 that 150 U.S. workers were no longer available to work the Green Acre order.

20 88. In the February 27, 2004 letter, defendant Global told DOL that 98
21 U.S. workers had been offered employment at Green Acre but failed to report to
22 work.
23

1 89. In the February 27, 2004 letter, defendant Global told DOL that 22
2 U.S. workers had been terminated from work at Green Acre for job-related
3 reasons.

4 90. In the February 27, 2004 letter, defendant Global told DOL that 19
5 U.S. workers had started work at Green Acre but abandoned the job after a brief
6 period.
7

8 91. In the February 27, 2004 letter, defendant Global requested a new
9 labor certification determination for 140 H-2A workers, unless 140 additional
10 qualified U.S. workers could be identified and available for work within 72 hours
11 of the receipt of the letter.
12

13 92. On or about March 3, 2004, DOL granted defendant Global temporary
14 labor certification for 131 H-2A workers to be employed pursuant to the Green
15 Acre order.
16

17 93. Defendant Global recruited all 131 H-2A workers exclusively from
18 Thailand to fill the Green Acre order.

19 94. On March 5, 2004, staff from ESD sent an electronic message (ESD
20 e-mail) to DOL stating they had “evidence which suggests there is a willing and
21 available pool of [U.S.] workers” to fill defendant Global’s request for H-2A labor.
22
23

1 95. The March 5, 2004 ESD e-mail stated that an “internal inquiry” of
2 defendant Global’s hiring process and procedures of U.S. workers revealed several
3 problems.
4

5 96. The March 5, 2004 ESD e-mail stated that after U.S. workers were
6 screened they were provided with a toll-free number for defendant Global. The
7 U.S. worker would then be interviewed by defendant Global staff over the
8 telephone and be told that they were “hired.”
9

10 97. The March 5, 2004 ESD e-mail stated that defendant Global would
11 then only call back a limited number of the U.S. workers who were informed that
12 they had been hired, and invite those limited few to an orientation meeting.
13

14 98. On or about March or April 2004, despite ESD’s complaints to DOL
15 regarding defendant Global’s flawed recruitment of U.S. workers, approximately
16 131 Thai H-2A workers departed for the Yakima Valley to fill the Green Acre
17 order.
18

19 99. On information and belief, the employment contracts between
20 defendant Global and the Thai H-2A workers recruited for work at Green Acre
21 were from March 2004, until November 5, 2004.
22
23

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1 **Valley Fruit I Job Order**

2 100. On December 11, 2003, defendant Global submitted to DOL an
3 application for H-2A workers, attached as Exhibit 2 (hereinafter "Valley Fruit I
4 order").
5

6 101. The Valley Fruit I order was also filed with the ESD Central Office in
7 Olympia, Washington.

8 102. The Central Office referred the Valley Fruit I order to the ESD
9 WorkSource office in Yakima for recruitment of local U.S. workers.
10

11 103. WorkSource Yakima's Employer Services Unit entered the Valley
12 Fruit I order into its computer job data base and posted it on a job board.

13 104. The Valley Fruit I order sought 30 workers to be employed as farm
14 workers at Valley Fruit from January 26, 2004 through April 1, 2004.

15 105. The Valley Fruit I order stated: "No U.S. worker will be rejected for
16 or terminated from employment for other than a lawful job-related reason."
17

18 106. The Yakima WorkSource office made a total of 117 referrals of U.S.
19 workers to defendant Global to fill the 30 job openings on the Valley Fruit I order.

20 107. On January 20, 2004, defendant Global sent a letter to DOL stating it
21 had made offers of employment to U.S. workers for all 30 Valley Fruit I jobs.
22
23

1 108. On January 20, 2004, defendant Global sent a letter to DOL stating
2 that additional U.S. workers were accepted as referrals in case some workers did
3 not show up for work at Valley Fruit or abandoned their employment.
4

5 109. In the January 20, 2004 letter, defendant Global also noted that it may
6 request from DOL a re-determination of need if sufficient workers did not report
7 for work or remain on the job.

8 110. In the January 20, 2004 letter, defendant Global also requested that
9 DOL terminate recruitment of U.S. workers for the Valley Fruit I order because all
10 30 jobs were filled.
11

12 111. On January 31, 2004, DOL denied defendant Global's request for
13 H-2A workers because the Valley Fruit I order had been filled by U.S. workers.

14 112. On February 18, 2004, defendant Global sent a letter by facsimile and
15 overnight mail to DOL stating that only 18 U.S. workers remained employed under
16 the Valley Fruit I order.
17

18 113. In the February 18, 2004 letter, defendant Global further told DOL
19 that an additional 49 U.S. workers were no longer available to work the Valley
20 Fruit I order.

21 114. In the February 18, 2004 letter, defendant Global told DOL that 38
22 U.S. workers were offered employment, but failed to report to work.
23

1 115. In the February 18, 2004 letter, defendant Global told DOL that 5 U.S.
2 workers who had started work had abandoned their jobs after a brief period of
3 work.
4

5 116. In the February 18, 2004 letter, defendant Global told DOL that 3 U.S.
6 workers had been terminated for job-related reasons.

7 117. In the February 18, 2004 letter, defendant Global told DOL that 4 U.S.
8 workers were offered employment, but had Social Security number mismatches.

9 118. In the February 28, 2004 letter, defendant Global requested a new
10 labor certification determination for 12 H-2A workers, unless 12 additional
11 qualified U.S. workers could be identified and available for work within 72 hours
12 of the receipt of the letter.
13

14 119. Upon information and belief, all Valley Fruit I job openings were
15 filled by U.S. workers and the job order was closed by DOL.
16

17 **Valley Fruit II Job Order**

18 120. On or about June 28, 2004, defendant Global submitted to DOL an
19 application for H-2A workers, attached as Exhibit 3 (hereinafter "Valley Fruit II
20 order").
21

22 ///

23 ///

1 121. The Valley Fruit II order was submitted for 70 temporary H-2A
2 workers to be employed as farm workers at Valley Fruit from August 15, 2004
3 through October 31, 2004.
4

5 122. The Valley Fruit II order stated: "No U.S. worker will be rejected for
6 or terminated from employment for other than a lawful job-related reason."
7

8 123. The Yakima WorkSource office made a total of 46 referrals of U.S.
9 workers to defendant Global to fill the 70 job openings on the Valley Fruit II order.
10

11 124. Defendant Global only hired 8 of the U.S. workers referred by
12 Yakima WorkSource.
13

14 125. On August 6, 2004, DOL granted defendant Global's temporary labor
15 certification for 62 H-2A workers to be employed pursuant to the Valley Fruit II
16 order.
17

18 126. On information and belief, defendant Global hired all 62 H-2A
19 workers from Thailand to fill the Valley Fruit II Order.
20

21 127. On information and belief, the employment contracts between the
22 Thai H-2A workers and defendant Global extended from August 15, 2004, until
23 October 31, 2004.

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23

1 A. ADDITIONAL FACT ALLEGATIONS PERTAINING TO
2 THE DENIED WORK SUBCLASS

3 128. In February, 2004, plaintiff Ricardo Betancourt went to WorkSource
4 in Yakima, Washington, to apply for work.

5 129. While at the WorkSource office, plaintiff Betancourt had a telephone
6 interview with defendant Global.

7 130. Defendant Global hired plaintiff Betancourt and told him to expect a
8 phone call about his start date.

9 131. Defendant Global failed to contact plaintiff Betancourt.
10

11 132. Defendant Global failed to provide plaintiff Betancourt with work as
12 promised.

13 133. Defendant Global similarly failed to contact members of the Denied
14 Work subclass following their application for employment or acceptance of
15 employment to inform them of when and where to report for work.
16

17 134. Defendant Global discouraged the Denied Work subclass from
18 obtaining employment by failing to inform members of scheduled orientations and
19 by refusing to allow members to participate in orientation meetings
20

21 135. Defendant Global rejected members of the Denied Work subclass
22 from employment for other than lawful job-related reasons.
23

1 136. Defendant Global failed to offer employment to members of the
2 Denied Work subclass workers.

3 137. On May 10, 2005, ESD sent a Notice of Discontinuation of
4 Employment Services to defendant Global for consistently failing to make a good
5 faith effort to recruit U.S. workers before hiring workers pursuant to an H-2A visa.
6

7 138. The May 10, 2005 letter from ESD stated that defendant Global's
8 recruitment practices improperly discouraged U.S. workers.

9 139. The May 10, 2005 letter from ESD stated that defendant Global failed
10 to inform recruits of promised orientations and conducted orientations only in
11 English.
12

13 140. The May 10, 2005 letter from ESD stated that of the 1,026 referrals
14 ESD made to defendant Global, only 166 individuals were hired.

15 141. The May 10, 2005 letter from ESD stated that ESD followed up with
16 51 workers who were not hired by defendant Global, and of these 48 workers
17 provided information which contradicted the rationale provided by defendant
18 Global for refusing employment to the workers.
19

20 142. Defendant Global discriminated against members of the Denied Work
21 subclass based on national origin or race when it refused to hire or employ
22 plaintiffs and hired and employed H-2A workers from Thailand.
23

1 B. ADDITIONAL FACT ALLEGATIONS PERTAINING TO
2 THE GREEN ACRE SUBCLASS

3 143. In January 2004, plaintiff Jose Sanchez went to WorkSource in
4 Yakima, Washington, to apply for work.

5 144. In January 2004, plaintiff Sanchez met with defendant Global at the
6 WorkSource office.

7 145. In January 2004, defendant Global hired plaintiff Sanchez at the
8 WorkSource office.

9 146. Defendants Global Horizons and Green Acre directed members of the
10 Green Acre subclass, including plaintiff Sanchez, to meet certain production
11 standards in the pruning, thinning, and harvesting.
12

13 147. The Green Acre job orders provided to DOL, ESD, and the workers
14 recruited for Green Acre did not include any production standards for pruning,
15 thinning or harvesting.
16

17 148. At the end of August 2004, defendant Global instructed the entire
18 crew of Green Acre subclass members then working with plaintiff Sanchez at
19 Green Acre orchards, including plaintiff Sanchez, to stop working without giving a
20 reason why they were to stop.
21

22 149. Plaintiff Sanchez returned to Green Acre orchards the following day
23

1 and spoke with a supervisor for defendant Global who informed him that there was
2 no work for him.

3 150. Defendants Global and Green Acre continued to employ H-2A
4 workers from Thailand at the Green Acre orchards, at the same time U.S. resident
5 workers were told there was no more work.
6

7 151. Defendants Global and Green Acre failed to comply with a
8 progressive disciplinary process before terminating plaintiff Sanchez.

9 152. Defendants Global and Green Acre failed to comply with the working
10 arrangement and the terms and conditions of employment of U.S. resident workers
11 by:
12

- 13 a. Imposing productivity standards not included in the job orders
14 provided to DOL, ESD and workers recruited for Green Acre;
- 15 b. Failing to provide employment for the promised work period;
- 16 c. Failing to comply with a progressive discipline process before
17 terminating plaintiffs; and
18
- 19 d. Failing to provide employer-provided transportation as
20 promised in the job orders provided to DOL, ESD and workers
21 recruited for Green Acre.
22
23

1 153. Defendant Global and Green Acre failed to pay wages due to
2 members of the Green Acre subclass by making improper deductions for taxes not
3 required by Washington state government.
4

5 154. Defendant Global and Green Acre failed to provide adequate written
6 pay statements to members of the Green Acre subclass.

7 155. On May 10, 2005, the Washington State Employment Security
8 Department sent a Notice of Discontinuation of Employment Services to defendant
9 Global for failure to comply with basic requirements of state law, including
10 improperly deducting Washington state income tax from workers' pay.
11

12 156. On June 3, 2005, the Washington State Department of Labor and
13 Industries ("L&I") sent a Notice of Violation and Assessment of Wages and
14 Penalties to defendant Global for violations of state law including making
15 improper deductions for taxes not required by the Washington state government.
16

17 157. The June 3, 2005, notice from L&I noted that defendant Global had
18 unlawfully deducted \$80.96 in state income tax from plaintiff Sanchez.

19 158. On June 3, 2005, the Washington State Department of Labor and
20 Industries sent a Notice of Violation and Assessment of Wages and Penalties to
21 defendant Global for failing to provide all information required on statements of
22
23

1 earnings to workers including the employer's address and telephone number, the
2 beginning and ending dates of the pay period, and the rate of pay for "other" hours.

3 159. Defendants Global and Green Acre discharged plaintiff Sanchez and
4 members of the Green Acre subclass from employment for other than lawful job-
5 related reasons.
6

7 160. Defendants Global and Green Acre discriminated against plaintiff
8 Sanchez and members of the Green Acre subclass in the terms and conditions of
9 employment and discharged them from employment based on national origin and
10 race.
11

12 C. ADDITIONAL FACT ALLEGATIONS PERTAINING TO
13 THE VALLEY FRUIT SUBCLASS

14 161. In January 2004, plaintiff Jose Perez went to WorkSource in Yakima,
15 Washington to apply for work.

16 162. In January 2004, plaintiff Perez met with defendant Global at the
17 WorkSource office.

18 163. In January 2004, defendant Global hired plaintiff Perez at the
19 WorkSource office.
20

21 ///

22 ///

1 164. Defendant Global directed members of the Valley Fruit subclass,
2 including plaintiff Perez, to meet certain production standards in the pruning,
3 thinning, and harvesting.

4 165. The Valley Fruit job orders provided to DOL, ESD and workers
5 recruited for Valley Fruit did not include any production standards for pruning,
6 thinning or harvesting.

7 166. During the pear harvest, members of the Valley Fruit subclass asked
8 to be paid by piece rate.

9 167. Defendant Global refused to pay plaintiff Perez and members of the
10 Valley Fruit subclass the piece rate of \$19 per bin as promised in the work order.

11 168. In mid August 2004, after the members of the Valley Fruit subclass
12 objected to the pay rate offered by defendant Global in the amount of \$13.50 a bin,
13 defendant Global fired the entire crew of Valley Fruit subclass members then
14 working with plaintiff Perez at Valley Fruit orchards, including plaintiff Perez.

15 169. At the same time Valley Fruit subclass members were fired as set
16 forth in paragraph 152, a supervisor for defendant Global informed the members of
17 the Valley Fruit subclass that defendant Global had another group of workers to do
18 the work.

1 170. Defendants Global and Valley Fruit failed to comply with the
2 progressive disciplinary process before terminating plaintiff Perez and other
3 members of the Valley Fruit subclass.
4

5 171. Defendants Global and Valley Fruit failed to provide written
6 statements of earnings to plaintiff Perez that consistently included the employer's
7 address and telephone number, the beginning and ending dates of the pay period,
8 and the number of piece work units earned when paid by the piece rate.
9

10 172. Defendant Global and Valley Fruit failed to pay wages due to
11 members of the Valley Fruit subclass by making improper deductions for taxes not
12 required by Washington state government.

13 173. Defendants Global and Valley Fruit failed to comply with the working
14 arrangement and the terms and conditions of employment by:

- 15 a. Imposing productivity standards not included in the job orders
16 provided to DOL, ESD and workers recruited for Valley Fruit;
17
18 b. Failing to provide employment for the promised work period;
19 and
20
21 c. Failing to comply with the progressive discipline process set
22 forth in the job order before terminating plaintiffs.
23

1 174. Defendants Global and Valley Fruit failed to pay wages due to
2 members of the Valley Fruit subclass by failing to pay the promised piece rate.

3 175. Defendant Global and Valley Fruit failed to provide adequate written
4 pay statements to members of the Valley Fruit subclass.
5

6 176. On June 3, 2005, the Washington State Department of Labor and
7 Industries sent a Notice of Violation and Assessment of Wages and Penalties to
8 defendant Global for failing to provide all information required on statements of
9 earnings to workers including the employer's address and telephone number, the
10 beginning and ending dates of the pay period, and the rate of pay for "other" hours.
11

12 177. Defendants Global and Valley Fruit discharged plaintiff Perez and
13 members of the Valley Fruit subclass from employment for other than lawful job-
14 related reasons.

15 178. Defendants Global and Valley Fruit discriminated against plaintiff
16 Perez and members of the Valley Fruit subclass in the terms and conditions of
17 employment and discharged them from employment based on national origin and
18 race.
19

20 ///

21 ///

22 ///

CAUSES OF ACTION

A. **PLAINTIFF CLASS – U.S. RESIDENT WORKERS**

AWPA Violations

179. Defendants Global, Orian, Green Acre, Jim Morford, Valley Fruit, and John Verbrugge intentionally provided false and misleading information to the plaintiff class about the terms, conditions, and existence of employment in violation of 29 U.S.C. § 1831(e) and 29 U.S.C. § 1821(f).

FLCA Violations

180. Defendants Global and Orian, violated the rights of the plaintiff class by providing false and misleading information about the terms, conditions, and existence of employment in violation of RCW 19.30.120(2).

181. Defendants Global and Orian violated the rights of the plaintiff class by failing to provide an adequate written disclosure of the terms and conditions of employment at the time of recruitment or hiring and failing to provide the disclosure in Spanish as required by RCW 19.30.110(7).

182. Defendants Global and Orian violated the rights of the plaintiff class by acting as a farm labor contractor and failing to carry a current farm labor contractor's license and surety bond at all times as required by RCW 19.30.020, 040, and 110.

1 183. Defendants Green Acre, Jim Morford, Valley Fruit, and John
2 Verbrugge knowingly used the services of an unlicensed farm labor contractor,
3 making them personally, jointly, and severally liable for defendant Global's
4 violations of the Farm Labor Contractors Act, under RCW 19.30.200, alleged for
5 the entire Plaintiff class and the subclasses as set forth below.
6

7 B. DENIED WORK SUBCLASS

8 AWPA Violations

9 184. Defendants Global, Orian, Green Acre, Jim Morford, Valley Fruit and
10 John Verbrugge intentionally failed to offer and provide employment to the Denied
11 Work subclass in violation of 29 U.S.C. § 1832(c) and 29 U.S.C. § 1822(c).
12

13 FLCA Violations

14 185. Defendants Global and Orian violated the rights of members of the
15 Denied Work subclass by failing to offer and provide employment to the subclass
16 in violation of RCW 19.30.110(5).
17

18 Section 1981 – Race Discrimination

19 186. Defendant Global unlawfully discriminated against plaintiffs based on
20 race in violation of 42 U.S.C. § 1981 when it refused to hire members of the
21 Denied Work subclass or failed to provide the subclass with adequate information
22 to report for work because it preferred to hire H-2A workers from Thailand.
23

1 **WLAD - National Origin Discrimination**

2 187. Defendant Global unlawfully discriminated against plaintiffs based on
3 race or national origin in violation of RCW 49.60.180 when it refused to hire
4 members of the Denied Work subclass or failed to provide the subclass with
5 adequate information to report for work because it preferred to hire H-2A workers
6 from Thailand.
7

8 C. **GREEN ACRE SUBCLASS**

9 **AWPA Violations**

10 188. Defendants Global, Orian, Green Acre and Jim Morford intentionally
11 violated the working arrangement with members of the Green Acre subclass by
12 failing to provide hours of work promised, failing to provide employment for the
13 promised work period, failing to provide employer provided transportation,
14 enforcing undisclosed productivity standards, and failing to comply with the
15 promised discipline process before termination, in violation of 29 U.S.C. § 1832(c)
16 and 29 U.S.C. § 1822(c).
17
18

19 189. Defendants Global, Orian, Green Acre and Jim Morford intentionally
20 failed to pay wages due to the Green Acre subclass under the terms of the working
21 arrangement, in violation of 29 U.S.C. § 1832(a) and (c) and 29 U.S.C. § 1822(a)
22 and (c).
23

1 190. Defendants Global, Orian, Green Acre and Jim Morford intentionally
2 failed to provide adequate written pay statements to the Green Acre subclass as
3 required by 29 U.S.C. § 1831(c) and 29 U.S.C. § 1821(d).
4

5 **FLCA Violations**

6 191. Defendants Global and Orian violated the agreement it had with
7 members of the Green Acre subclass by failing to provide hours of work
8 promised, to provide employment for the promised work period, to provide
9 employer provided transportation, enforcing undisclosed productivity standards
10 and failing to comply with the promised discipline process before termination, in
11 violation of RCW 19.30.110(5).
12

13 192. Defendants Global and Orian violated the rights of members of the
14 Green Acre subclass by failing to pay wages due in violation of RCW
15 19.30.110(4).
16

17 193. Defendants Global and Orian violated the rights of members of the
18 Green Acre subclass by failing to provide adequate written pay statements as
19 required by RCW 19.30.110(8).
20

21 **Washington State Wage Claims**

22 194. Defendants Global and Green Acre willfully withheld wages of the
23 Green Acre subclass in violation of RCW 49.52.050.

1 **Section 1981 – Race Discrimination**

2 195. Defendants Global and Green Acre unlawfully discriminated against
3 members of the Green Acre subclass based on race in violation of 42 U.S.C. §
4 1981.
5

6 **WLAD - National Origin Discrimination**

7 196. Defendants Global and Green Acre unlawfully discriminated against
8 members of the Green Acre subclass based on race or national origin in violation
9 of RCW 49.60.180(2) and (3).
10

11 D. **VALLEY FRUIT SUBCLASS**

12 **AWPA Violations**

13 197. Defendants Global, Orian, Valley Fruit and John Verbrugge
14 intentionally violated the working arrangement with members of the Valley Fruit
15 subclass by failing to provide employment for the promised work period, enforcing
16 undisclosed productivity standards, and failing to comply with the promised
17 discipline process before termination, as provided by 29 U.S.C. § 1832(c) and 29
18 U.S.C. § 1822(c).
19

20 198. Defendants Global, Orian, Valley Fruit and John Verbrugge
21 intentionally failed to pay wages due to the Valley Fruit subclass, including the
22
23

1 applicable piece rate, under the terms of the working arrangement, in violation of
2 29 U.S.C. § 1832(a) and (c) and 29 U.S.C. § 1822(a) and (c).

3 199. Defendants Global, Orian, Valley Fruit and John Verbrugge
4 intentionally failed to provide adequate written pay statements for the Valley Fruit
5 subclass as required by 29 U.S.C. § 1831(c)(1)(a) and 29 U.S.C. § 1821(d)(1)(a).
6

7 **FLCA Violations**

8 200. Defendants Global and Orian violated the agreement it had with
9 members of the Valley Fruit subclass by failing to provide employment for the
10 promised work period, enforcing undisclosed productivity standards, and failing to
11 comply with the promised discipline process before termination, in violation of
12 RCW 19.30.110(5).
13

14 201. Defendants Global and Orian violated the rights of members of the
15 Valley Fruit subclass by failing to pay wages due, including the applicable piece
16 rates, in violation of RCW 19.30.110(4).
17

18 202. Defendants Global and Orian violated the rights of members of the
19 Valley Fruit subclass by failing to provide adequate written pay statements as
20 required by RCW 19.30.110(8).
21

22 ///

23 ///

1 **Washington State Wage Claims**

2 203. Defendants Global and Valley Fruit willfully withheld wages of the
3 Valley Fruit subclass in violation of RCW 49.52.050.

4 **Section 1981 – Race Discrimination**

5
6 204. Defendants Global and Valley Fruit unlawfully discriminated against
7 members of the Valley Fruit subclass based on race in violation of 42 U.S.C. §
8 1981.

9 **WLAD - National Origin Discrimination**

10
11 205. Defendants Global and Valley Fruit unlawfully discriminated against
12 members of the Valley Fruit subclass based on race or national origin in violation
13 of RCW 49.60.180(2) and (3).

14 **PRAYER FOR RELIEF**

15 Plaintiffs ask this Court to grant them the following relief:

- 16 1. Certify this action as a class action and all subclasses pursuant to Fed.
17 R. Civ. P. 23(b)(2) and (b)(3);
18
19 2. Declare that defendants Global, Orian, Green Acre, Jim Morford,
20 Valley Fruit, and John Verbrugge intentionally violated the AWPAs;
21
22 3. Enter a permanent injunction pursuant to 29 U.S.C. § 1831(c) and (e)
23 and 29 U.S.C. § 1821(d) and (f) requiring defendants Global, Orian, Green Acre,

1 Jim Morford, Valley Fruit and John Verbrugge to provide accurate disclosure of
2 information in job orders, and accurate and complete written pay statements;

3 4. Award each of the plaintiffs and the other members of the class their
4 actual damages or statutory damages of up to \$500, whichever is greater, for each
5 violation of the AWWA;
6

7 5. Declare that defendants Green Acre, Jim Morford, Valley Fruit and
8 John Verbrugge knowingly used the services of an unlicensed farm labor
9 contractor and therefore are jointly and severally liable for the actions of defendant
10 Global pursuant to RCW 19.30.200;
11

12 6. Declare that defendants Global and Orian violated the FLCA;

13 7. Award each of the plaintiffs and the other members of the class their
14 actual damages or statutory damages of \$500 whichever is greater, for each
15 violation of the FLCA, together with the cost of suit including reasonable
16 attorneys' fees and costs pursuant to RCW 19.30.180;
17

18 8. Order the surety to tender to the Court an amount equal to the full
19 amount of all applicable bonds, or the damages awarded to plaintiffs, whichever is
20 less, and provide notice of the intent to tender this amount to the Director of Labor
21 and Industries pursuant to RCW 19.30.170(6);
22
23

1 9. Enter a permanent injunction pursuant to RCW 19.30.180 requiring
2 defendants Global, Orian, Green Acre, Jim Morford, Valley Fruit and John
3 Verbrugge to comply with FLCA's licensing, bonding and disclosure
4 requirements, and specifically to provide all workers with a written statement
5 adequately describing the terms and conditions of employment in Spanish or the
6 language common to workers who are not fluent or literate in English;
7

8 10. Award each of the plaintiffs and the other members of the class twice
9 the amount of wages willfully withheld as exemplary damages, together with costs
10 of suit and reasonable attorney's fees pursuant to RCW 49.52.070;
11

12 11. Award each of the plaintiffs and all class members their actual
13 damages for violations of 42 U.S.C. § 1981, including compensatory and punitive
14 damages, together with the cost of suit, including reasonable attorney's fees and
15 costs pursuant to 42 U.S.C. § 1988;
16

17 12. Award each of the plaintiffs and all class members their actual
18 damages for violations of the Washington State Law Against Discrimination,
19 together with the cost of suit including reasonable attorneys' fees and costs
20 pursuant to RCW 49.60.030(2);
21

22 ///
23

1 13. Enter a permanent injunction requiring defendants Global, Green Acre
2 and Valley Fruit to comply with federal and state law prohibiting discrimination
3 based on race and national origin in hiring, conditions of employment, and firing.
4

5 14. Grant other further relief as just and appropriate.

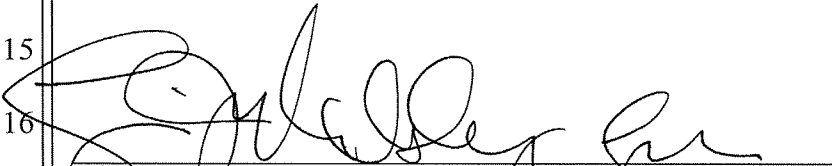
6 DATED this 19th day of July, 2006.

7
8 COLUMBIA LEGAL SERVICES

9 
10

11 Lori Jordan Isley, WSBA #21724
12 Mirta Laura Contreras, WSBA # 21721
13 Joachim Morrison, WSBA # 23094
14 Attorneys for Plaintiffs

15 PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP

16 
17

18 Richard W. Kuhling, WSBA #79276
19 Devra S. Hermosilla, WSBA # 31169
20 Attorneys for Plaintiffs
21
22
23

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Devra Sigle Hermosilla, devra.hermosilla@painehamblen.com

Richard W. Kuhling, richard.kuhling@painehamblen.com

Ryan M. Edgley, edgleyr@hscis.net

Paul H. Beattie, hrappgray@aol.com

Joachim Morrison, joe.morrison@columbialegal.org

Howard W. Foster, fosterh@jbltd.com

Jeffery Cole Loudon, jloudon@talbottlaw.com



Linda Banda
Columbia Legal Services
6 S. 2nd Street, Suite 600
Yakima, WA 98901
(509)575-5593
linda.banda@columbialegal.org