

How employers can avoid legal problems with workers

BY MONTIE TAK
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CARLISLE — When John Steinbeck wrote "The Grapes of Wrath" in 1939, he told the story of the Joan family who journeyed west to try to find work in Depression-era migrant labor camps.

While conditions in labor camps have changes since then, the rights and problems of migrant labor are still of prime concern to grower and worker alike.

The Dickinson School of Law in Carlisle recently hosted an agricultural labor management workshop to discuss those concerns.

Attorneys, growers and workers gathered to share their views on preseason responsibilities of growers, inseason requirements, worker disputes and complaints and dispute resolution. Jane Rigler, a professor of law at the school, moderated the discussion, which was attended by 100 people.

"I look at this as the start of communication, if not cooperation, at least an enhanced understanding of the different points of view," says Steve Crawford, the director of governmental relations for the Pennsylvania Farmers Association.

The last 15 years of farmer-worker relations, he added, have been mainly characterized by rhetorical exchange.

Crawford says most of the audience consisted of growers who, like most other farmers rely more heavily on their employees more than do many other types of employers.

"The overwhelming majority of employers are concerned about the welfare of their workers," he says. "This is one of the favorable gestures."

Every grower should learn how to deal with and avoid worker complaints, Larry Norton, an attorney for Camden Regional Legal Services, told the seminar

"Resolve complaints early by having a direct relationship with your workers," says Norton. "Or very closely supervise your crew leaders."

If a dispute is not resolved and you receive a letter or a telephone call from a labor advocate, Norton emphasizes the necessity not to stonewall. There are several reasons why it is important to resolve problems promptly.

Cost to the grower is one reason. If the grower is found negligent, he will be out the actual damages the court finds against him. He will have spent money for a lawyer and in a protracted case, legal fees may run into several thousand dollars. In some cases, the grower may have to pay the legal fees for the workers.

Unresolved disputes can create a lot of antagonism between a grower and a worker. Norton reminds growers they may have to face the worker in the worker in the future. And he hastens to remind growers that workers who are fairly treated can be more productive.

"The most usual problem," he says, "centers around getting the work you are promised."

A misrepresentation regarding the amount of available work is serious. The next concern of the worker is getting the pay he or she is entitled to have. Workers must understand the deductions made from their pay, as well.

Other potential sources of trouble are housing offered to workers and transportation to work sites.

"The most important thing is to get farmers to talk directly to farm workers," Norton says. "The second best is the use of legal advocates to speak for the workers." But he considers the use of third parties, as in private arbitration, to be "a step backward."

He feels it is vital for the farmer to head off disputes by making sure you know what workers have

been told and to take responsibility for this when they are recruited. Know what goes on between the crew leader and the workers and deal with the people's complaints directly.

"Stonewalling can be a matter of pride. Some farmers don't want to admit there's anything to talk about when they receive a demand letter," he said. "If you do show up in court you will look better if you have made efforts to resolve disputes."

His thoughts were echoed by another participant, Norm White, an attorney with McNees, Wallace and Nurick of Harrisburg.

"You get credit if you make an honest effort to resolve a dispute before it goes to litigation," adds White.

White acknowledges the farmer has a tremendous investment of capital subject to elements he cannot control, such as weather and insects. "To a degree," says White, "the worker may also be an unstable element."

But he says it is necessary for the farmer to see—and solve—injustices among people who may not be able to articulate their grievances.

"If you react badly," he cautions, "you will deserve what you get." The farmer's attitude is important and White adds there may be another side to the story.

"If the worker comes to you with a complaint it may take a tremendous amount of courage for him to face you," says White. The grower should acknowledge the worker's courage and involve himself directly by looking into the problem.

There may be a time when the grower has to decide when to call a lawyer. He says you must determine how much is involved and if a number of issues are involved, it shows you have a need for early legal analysis and services.

"Your ignorance is not an excuse," added another participant, Attorney Del Lantz. "Know your obligations and make an honest effort to follow the law."

If a grievance is substantial, you as a grower may be the subject of a class action suit. When this occurs, says Lantz, one plaintiff with a complaint that is widespread may stand for several or many other workers.

"This is difficult for an employer

because it can involve all the past employees," says Lantz. "This is why it is important to keep accurate, credible records."

The most important thing for a grower to do, says Art Read, an attorney with Friends of Farm Workers, Inc. in Philadelphia, is to start a dialog with his workers.

The worker has a right to demand a description of employment, he says. This would tell the worker what he was picking, how much he would be paid and how much work was available.

"Another common problem is a worker complaint about housing," says Read. "If he has a legitimate complaint you can not just tell him to get out."

A grower can not require workers to buy meals from him; Read says the "company store" operation is a direct violation of law. You also can not tell workers they may not apply for food stamps. Workers perceived as "troublesome" can not be blacklisted by either the grower or the crew leader.

"You are liable if a worker proves you haven't dealt with him

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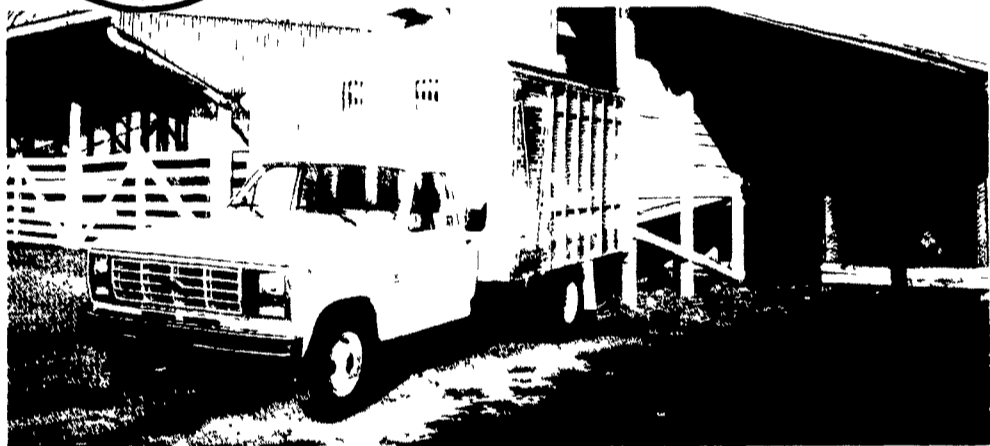
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