

# Courts, growers discuss practicality of worker pay for breaks

By Shelby Rowe  
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TOPPENISH — State Supreme Court justices who are being asked to require farmers to pay farmworkers additional money for rest breaks focused on how practical such an arrangement would be during a public session in central Washington.

Mike Gempler, executive director of the Washington Growers League, said the current piece-rate system defined by the Department of Labor and Industries allows farmworkers to take breaks and rest when they want.

“We’re part of the amicus brief and believe that the (current) interpretation of the DLI (Labor and Industries) is what we think is correct and reasonable,” Gempler said.

If the justices grant an additional paid break every four hours, the time would be complicated to track and very costly to employers, he said.

Gempler said the justices would also need to determine whether the additional breaks were paid based on minimum wage or the number of hours worked that week by each employee, which differs each pay period.

Depending on how many workers each employer had, they may have to pay an extra couple thousand dollars each week.

“(The Washington Growers League) represents employers and this would be a lot of money and a management challenge,” Gempler said. “We think the system is fair and the lawsuit is not fair.”

The Yakima Herald-Republic reported that dozens of spectators were at Heritage University for the rare proceeding Tuesday in Toppenish.

A class-action lawsuit was filed by two farmworkers against Sakuma Bros. Farms, a berry farm in Burlington. The farmworkers and Sakuma Bros. Farms finalized a settlement agreement resolving most of the claims in November.

The farm did not admit any wrongdoing, but did agree to pay \$850,000 to settle claims. But the workers and the farm did not agree on workers’ claims that they should receive extra pay for the 10-minute break they can take every four hours.

The laborers were paid by units of work accomplished — bins filled or trees pruned — rather than by the hour, and argued their employer should pay them for their rest breaks over and above the agreed upon wage.

Sakuma Bros. Farms contends wages were set high enough to cover the break periods.

CEO Steve Sakuma, who will soon retire from the position, told the Skagit Valley Herald Tuesday that the farm is following the law as written.

He noted that the court could require back pay for the last three years, which would be a hefty price tag for employers.

Sakuma Bros. Farms clears its fields every four hours to ensure workers take a 10-minute rest break, Sakuma said.

“Then there’s no question about whether or not they take them,” he said.

If the court rules in favor of separate paid breaks, Sakuma said he wants to state lawmakers to evaluate the current laws as defined by the Department of Labor and Industries.

Washington State Attorney General Bob Ferguson issued a press release in February stating piece-rate workers need a monetary incentive to take breaks. He also filed a friend-of-the-court brief on the matter.

“Workers who otherwise might view the rest break as time away from picking fruit and thus earning money will instead have a vivid reminder that the rest break is a valuable part of their workday — a valuable part of their workday that deserves to be compensated,” according to the press release.

*\* Content by staff writer Shelby Rowe and The Associated Press*