



# Farm managers need license to hire workers, Washington agency says

Don Jenkins

Capital Press

**Published:**

December 28, 2015 9:29AM

**The Washington Department of Labor and Industries argues that farm management companies need a separate license to hire workers.**

OLYMPIA — The Washington Department of Labor and Industries has asked the state Supreme Court to require farm management companies to obtain a separate license to hire workers.

L&I argues in a court filing that its “longstanding” policy has been for on-site managers to have a license issued to farm labor contractors.

The leaders of the Washington Growers League and WAFLA, formerly known as the Washington Farm Labor Association, disputed the claim.

“Their brief and their position is a surprise and amazing to me,” Growers League Executive Director Mike Gempler said Wednesday. “I’m really disappointed they’re taking this kind of position. I think it’s a gross overreach.”

L&I filed the brief in connection with Saucedo v. John Hancock Insurance Co., a case the Supreme Court will hear Jan. 14.

The case stems from a 2012 federal class-action lawsuit in which workers at three Yakima County orchards alleged they were mistreated by a gun-toting foreman.

The lawsuit’s focus became whether the orchards’ on-site manager, Northwest Management and Realty Services, violated the state’s Farm Labor Contractor Act by not having an L&I license.

The act requires businesses that recruit and transport farmworkers to obtain the L&I license and post a bond.

The goal of the act is to prevent workers from being misled or stiffed out of pay by fly-by-night operators.

Northwest had been managing Yakima Valley orchards since 1986. According to court records, it didn't recruit or transport workers, and hired employees who came seeking work. The landowners paid the workers, and Northwest received \$150 a year per-acre to manage all farm operations, no matter how many people it employed.

Northwest argued it was a farmer, not a labor contractor, and would be easy to find and hold responsible for exploiting workers.

U.S. District Judge Thomas O. Rice ruled that Northwest should have had the license because its fee covered hiring workers.

He also ruled that the landowners, John Hancock and Texas Municipal Plans Consortium, were liable for not making sure Northwest had the license. A fourth defendant, California-based Farmland Management Services, which hired Northwest on behalf of the landowners, also was held responsible.

Rice awarded a total of \$1 million to 722 workers, who are represented by Columbia Legal Services.

The defendants appealed Rice's decision to the 9th U.S. Circuit Court of Appeals. The circuit found no court precedent addressing the issue, so it has asked the state Supreme Court to interpret the state's act.

L&I argues that as the sole enforcer of the labor act, the court should defer to its interpretation.

Farm management companies should be required to obtain a labor contractor's license because such businesses might not own any real property for workers to claim in lieu of back wages, according to L&I. "If the management company goes out of business, the employees are out of luck," L&I's brief states.

Agency spokesman Matthew Erlich said Wednesday that beginning in 2008 the department became more aggressive in educating growers about who needs a contractors license.

"We've done extensive outreach to stakeholders, farmers," he said.

Dan Fazio, the director of WAFLA, said that before Rice's ruling everyone assumed that companies such as Northwest were not labor contractors.

"They are in every way shape and form the employer," he said. "This does nothing to help the farmworker, and that's the big picture here."

Gempler said Rice's ruling did not reflect the industry's understanding of the law.

"That, honestly, was a surprise, that anybody could see it that way," he said.

L&I lists 167 farm and forestry labor contractors on its website. Farmworker labor contractors pay an annual licensing fee of \$35 and must post a bond ranging between \$5,000 and \$20,000, depending on the number of workers they hire out.

---

**MARKETPLACE**

**Auctions Hay Real Estate Tractors**