



TODOS TIENEN DERECHOS

VOLUME 1, ISSUE 1 JANUARY 2008

CLINIC HELPS 17 APPLY FOR U.S. CITIZENSHIP

Volunteer Michigan attorneys helped 17 immigrants apply for U.S. citizenship at a Naturalization Clinic co-sponsored by Farmworker Legal Services. The clinic's clients ranged from college students to retired farmworkers.

The clinic, held in Kalamazoo on October 20, 2007, was also co-sponsored by the Diocese of Kalamazoo Immigration Assistance Program (IAP) and the Kalamazoo County Bar Association.

The Bar Association recruited 20 attorneys, most of whom had no experience with immigration cases.

FLS and IAP organized a brief training on how to complete naturalization applications.

FLS and IAP pre-screened potential clients for eligibility for citizenship. The clients brought all necessary documents to the clinic, so that the attorneys were able to complete the entire naturalization application. Each client left the clinic with a packet ready to mail to the Immigration Service. Six of the clinic clients will be exempt from the English requirement because of their age (at least 50) and number of years as a legal resident.



Volunteer attorney Federico White works with a client during the naturalization clinic on October 20, 2007.

Many clients reported that they want to become American citizens in order to vote and to give back to the United States.

The federal government recently announced that applicants may have to wait 16-18 months to be processed. However, the clients hope that they are processed in time to vote in 2008.

GENERAL REQUIREMENTS FOR NATURALIZATION

- *Lawful Permanent Resident for at least 5 years (3 years if married to a U.S. citizen)*
- *18 years of age or older*
- *Possess good moral character*
- *Knowledge of U.S. history and government*
- *Ability to speak, read, and write English (some exceptions if age 50 or older)*
- *Attachment to the principles of the U.S. Constitution*

MICHIGAN DRIVER'S LICENSE RULES TO CHANGE

On December 27, 2007, the Michigan Attorney General (A.G.) issued a formal opinion that will result in new driver's license eligibility restrictions for immigrants.

Current state law says that the Secretary of State (SoS) may only issue licenses to "residents" of Michigan. Reversing a 1995 A.G. opinion, the current opinion interprets this law to find that

persons without lawful immigration status cannot establish the required intent to reside permanently in the state. Therefore, they are not considered Michigan "residents" and are not eligible to obtain a driver's license.

The SoS must now establish rules to implement the A.G.'s opinion and must decide which immigrants are eligible for licenses. The

process could take weeks or months and will likely affect U.S. citizens and eligible legal immigrants who do not possess documents that the SoS determines are satisfactory to prove their status.

New legislation or a court challenge could reverse the A.G.'s interpretation. FLS will keep the farmworker community up to date as this issue progresses.

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FLS AWARDED FEDERAL GRANT

The U.S. Department of Justice's Civil Rights Division recently awarded FLS a grant, which will be used primarily to educate farmworkers about their rights when obtaining employment.

The funds come from the USDOJ's Office of Special Counsel on Immigration-Related Unfair Employment Practices (OSC). The OSC's mission is to:

- educate both legally authorized workers and their

employers about the anti-discrimination provisions of the immigration law, and

- enforce legal protections against citizenship and national origin discrimination and document verification abuse in hiring, firing, and referral for a fee.

Using the grant, FLS plans to educate farmworkers through community presentations, targeted outreach to migrant labor camps, and Spanish language media, such as newspa-

pers and radio programs.

FLS will also give presentations to employer groups throughout the winter.

Citizenship status discrimination occurs when an employer treats individuals differently because of their citizenship or immigration status or because the individual is perceived as looking or sounding "foreign." For example, an employer who refuses to hire immigrants or has more stringent hiring requirements for US citizens who appear "foreign" may be com-

mitting citizenship status discrimination. US citizen and "green-card" only policies are generally prohibited.

"Document abuse" occurs when an employer requires employees to show specific documents or more documents than necessary during the I-9 process. For example, employers cannot require employees who appear foreign to show a green card. The employee has the right to choose which document listed on Form I-9 he or she will present to the employer.

U.S. WORKER FACED DISCRIMINATION BY DAIRY

"H-2A EMPLOYERS MUST HIRE ANY QUALIFIED U.S. WORKER WHO APPLIES FOR THE H-2A JOB BEFORE THE HALF-WAY POINT OF THE ... CONTRACT"

FLS Staff Attorney Adam Jeffries represented a U.S. citizen worker who applied for an H-2A job at a dairy in Hillsdale County.

The H-2A program allows agricultural employers to hire foreign workers on a temporary basis only if there are not enough workers available in the United States. H-2A employers must hire any quali-

fied U.S. worker who applies for the H-2A job before the half-way point of the H-2A work contract period.

Vreba Hoff Farms failed to hire the U.S. worker for the H-2A job even though she applied timely. FLS filed a "citizenship status" complaint on behalf of the worker with the U.S. Department of Justice Office of Special Counsel

(OSC). The OSC and FLS assisted the U.S. worker in obtaining a \$1,132 settlement from Vreba-Hoff Dairy.

American citizens and work-authorized immigrants should contact FLS if they are denied an interview or a job by an H-2A employer. FLS will assist them in determining whether they are victims of unlawful discrimination.

UNEMPLOYMENT VICTORIES FOR FARMWORKERS

"FARMWORKERS WHO ARE DENIED UNEMPLOYMENT BENEFITS SHOULD CONTACT FLS IMMEDIATELY, SINCE THE WORKER HAS ONLY 30 DAYS TO FILE A PROTEST"

FLS Staff Attorney Megan Reynolds represented a farmworker in an Unemployment Insurance Agency (UIA) hearing on the issue of whether she was correctly classified as a "seasonal employee."

The administrative law judge found that she was not subject to the seasonal employment provisions of the Michigan

Employment Security Act because the employer was not designated as a seasonal employer at the time the farmworker earned "base period" wages from that employer.

The administrative law judge noted an additional error in the UIA's determination. The UIA should not have denied the worker benefits be-

cause there was not sufficient evidence that the employer gave "reasonable assurance" of returning to work for the succeeding seasonal work period. A worker must receive such assurance in order for the employer to claim the seasonal employer exemption. The judge ruled that FLS' client did not have to re-

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UNEMPLOYMENT VICTORIES FOR FARMWORKERS (CONTINUED)

pay the amount of \$183.68 in benefits originally paid to her, and the client received benefits that she was owed in the amount of \$341.90.

Megan also represented another farmworker in protesting a UIA determination that he was disqualified from receiving benefits because he

had not satisfied his “re-work requirement.”

A re-work requirement normally means that a worker must earn a certain amount of money at a new job after quitting his previous job, in order to qualify for unemployment benefits.

FLS proved that the worker had earned more than the required “re-work” amount, so the UIA issued a re-determination showing that the worker was eligible for back benefits and future benefits.

Farmworkers who are denied benefits from the UIA, or

who think that their benefits are too low, should contact FLS immediately, since the worker has only 30 days to file a protest. It is especially important for workers to contact FLS when the UIA says that the employer was a “seasonal employer.”

FLS’ 2007 MIGRANT HOUSING ADVOCACY

As a member of the Inter-agency Migrant Services Committee (IMSC), FLS prepared a Migrant Housing Issue Brief. The Housing Subcommittee then met with the director of the *Michigan Department of Agriculture* (MDA) to obtain his commitment to address the scarcity of migrant camp inspectors in Michigan.

Also working with the Housing Subcommittee, FLS has helped redefine referral protocols intended to increase effectiveness of inter-agency referrals and complaint response regarding migrant housing issues.

During camp outreach, FLS staff identified several unlicensed and/or substandard migrant housing camps and made referrals to government agencies, which resulted in the following remedial or enforcement actions:

Berrien County: The U.S. Department of Agriculture issued a compliance letter

prohibiting the operator from housing H-2A workers in *Rural Development*-financed housing, resulting in employment and housing being made available to additional U.S. workers.

Oceana County: Along with IMSC Migrant Child Task Force members, FLS Staff Attorney Jenny Mashek alerted authorities to a gas leak, which later resulted in a trailer fire, displacing a migrant family and destroying

their possessions. FLS obtained pro bono counsel who is pursuing a civil liability claim against the camp operator on behalf of the displaced family.

Van Buren County: A complaint initially referred by FLS resulted in a *Michigan Occupational Safety and Health Administration* compliance inspection and fines levied against the camp operator for violation of temporary labor

camp regulations.

Berrien County: FLS outreach staff discovered an unlicensed camp with 15 vineyard workers and family members. Following confirmation by the MDA inspector, a fine of \$10,000 was assessed for operating a migrant housing camp without a license in violation of the 2005 amendment to the state migrant housing law.



Above: Charred remains of the inside of a trailer at an Oceana County migrant camp after a June 2007 fire



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Summary of FLS Services for Farmworkers

Our services are free to farmworkers and their families who fall within certain income limits. When we are unable to help people, we refer them to programs or other attorneys who are able to assist them. We may be able to help with:

Employment

Minimum wage, even for a worker paid piece-rate, is \$7.15 per hour in Michigan.
Keep track of hours worked.
Worker not receiving his or her pay, and end-of-season bonus problems
Deductions from paychecks must be authorized by the worker or by law

Housing

Evictions, "lockouts," utility shut-offs, and poor housing conditions

Public Benefits

Child day care, Food stamps, Medicaid, and Unemployment for eligible immigrants and U.S. citizens, including children
Effect of public benefits on immigration status

Immigration

Filing family-based applications for migrant farmworkers and advising about immigration situations
Immigrant victims of crimes, including domestic violence

"TODOS TIENEN DERECHOS"

FLS T-SHIRTS FOR SALE AS FUNDRAISER

The Diocese of Kalamazoo Immigration Assistance Program (IAP) and FLS have teamed up to raise funds for the Jessica & Nifte Fellowship through the sale of T-shirts. The shirts display the motto that Jessica and Nifte strived to achieve: "Todos Tienen Derechos" (Everyone Has Rights). The FLS logo appears on the back of the shirt.

The Jessica & Nifte Immigration Assistance Fellowship was established at the IAP to honor the memory of **Jessica Lowery Castro** and **Nifte Granados**. These young women were assisting

migrant workers as outreach workers for Farmworker Legal Services when they were involved in a fatal car crash in 1999. Both were pursuing college educations to enable them to fulfill their shared dream of providing legal assistance to migrant workers and other immigrants.

This fellowship fulfills their dreams by funding interns to support the professional staff of the IAP and FLS in assisting immigrants in obtaining lawful residence, work authorization, and American citizenship. To be eligible to receive a

fellowship stipend, the student must be a high school graduate with a passion for helping the migrant or immigrant community in Michigan. Please contact FLS or IAP for more information.

"Todos" t-shirts are available in navy blue and forest green in the following sizes: Adult (S, M, L, XL, XXL). Blue shirts are also available in Toddler sizes: 2T, 3T, 4T.

To order a t-shirt please contact FLS by email (fls-michigan@umich.edu). All sizes are sold for \$20; all proceeds are applied to the Jessica & Nifte Fellowship.



Above: Front of t-shirt

Below: Back of t-shirt

