

Pay now, or pay later

Workers' rights group protects exploited laborers

Not all employers comply with wages and hours laws, and most low-wage employees can't afford lawyers. Especially hard hit are undocumented immigrants, many of whom fear that if they demand their legal rights they could be deported.

The Kingston-based Workers' Rights Law Center aims to provide a voice and legal representation for exploited workers. About 80 percent of their cases involve undocumented workers, said the center's executive director, Tricia Kakaiec. While the center mostly represents Hispanic workers, it also represents African-American and white non-Hispanic workers. And in its two years in existence, the center has won some impressive victories.

A cheese company that moved from Staten Island to the Hudson Valley was paying its workers less than the minimum wage, said outreach coordinator Geovanny Triviño. The company received Empire State Development funding, but did not pay overtime and charged employees for company-supplied uniforms, he said. The Workers' Rights Law Center gained a \$270,000 settlement, to be distributed to 100 to 140 workers.

A restaurant employee, allegedly paid for 55 hours of work per week when he often worked 80 hours, received a settlement of \$33,000 for three years of underpayment, according to the center's newsletter. The worker was also illegally charged for uniforms and meals.

In another case, the law center's legal director, Dan Werner, represented a group of farm workers



Workers Law Center staff outside their office. Left to right in rear are Kate Griffith, Geovanny Triviño, Tricia Kakaiec and Dan Werner. Diana Vazquez is in front.


who were smuggled across the border from Mexico and put to work on a farm in western New York. He said none of the promised pay or benefits were provided. The immigrants were forced to work to pay the cost of transporting them to the United States.

Their housing was "some of the worst I've ever seen," said Werner, who specializes in human-trafficking issues. The law center, with pro bono help from the New York City law firm of Kaye, Scholer, is suing to get these workers what they're owed.

In this case, the attorneys are citing Mexican law, Werner said. Mexico requires that labor contractors pay the cost of transporting workers and specifies minimum housing conditions. The basis for using Mexican labor law is that the contract for the migrants' work was signed in Mexico, and is thus subject to that country's laws.

This case was relatively rare, as the Workers' Rights Law Center works primarily with non-farm workers. The Farmworkers' Legal Services organization, based in Orange County, handles complaints by farm workers, and refers problems facing non-farm workers to the law center. Likewise, when the law center gets calls regarding agricultural workers, it refers them to the Farmworkers' Legal Services. Many of the center's cases involve workers in the restaurant and landscaping industries. They also represent construction, laundry, small retail and factory workers.

Kakalec and Werner are both lawyers. Kakalec worked in corporate law for three years after graduating from Harvard Law School. "I had a lot of debt," she said. In 1998, she began representing farm workers through the Farmworkers' Legal Services in New York state. Werner began working with farm workers in Florida on a fellowship after graduating from law



Workers' Law Center staff outside their office. Left to right in rear are Kate Griffith, Geovanny Triviño, Tricia Kakalec and Dan Werner. Diana Vazquez is in front.

school, later moving to New York.

The law center's first employee, Geovanny Triviño, attended the State University of New York in Binghamton. He's not a lawyer, but is in charge of outreach for the law center. He also organizes the education programs that are an important part of the center's work. He had an extensive background in farm worker representation when he joined the law center.

Staff attorney Kate Griffith is an NYU Law School graduate whose salary for two years is being paid through a Skadden Fellowship.

Paralegal Diana Vazquez, a recent Bard graduate, has worked with migrant farm workers through the Rural Migrant Ministry.

One of the myths the Workers' Rights Law Center is trying to dispel is that undocumented workers who bring complaints against their employers will be deported. The law forbids retaliation for bringing a complaint against an employer, Triviño said. Workers are entitled to the protection of the labor laws, whether they have documentation or not.

The staff did not have firm figures on the number of workers suffering substandard working conditions. With five staff members to cover a nine-county area, they must select their cases carefully, and can handle only a small percentage of complaints. However, in just two years, the center claims to have recovered some \$600,000 for about 300 low-wage workers in the Hudson Valley, with many more cases still pending.

The law center works in Ulster, Westchester, Rockland, Putnam, Orange, Sullivan, Dutchess, Columbia and Greene counties.

The Workers' Rights Law Center opened its doors part-time on June 1, 2004 and went full-time on Sept. 1 of the same year. Werner and Kakalec had been working with farm workers, but then began receiving calls from workers in a variety of other industries. They decided that an organization devoted to securing legal rights for these workers was needed.

The law center staff agrees that legalizing the status of immigrant workers would help all workers, and reject the notion that these workers reduce salaries for all.

"If undocumented workers can be paid less than minimum wage, it brings salaries down for all workers," Diana Vazquez said. "But if they are legal, they will be able to quit jobs that don't pay decent wages, and they will be able to press for better conditions. That would bring wages up for all workers."

In many cases, the law center helps workers contact the unions that represent their industries, Kakalec added.

"We don't represent union members; their unions do that," he said. "But we have a good relationship with the unions, and the unions help us."

"We can let people know which union would represent them, and how to get in touch with that union," Vazquez noted.

Ultimately, social change in the workplace won't come from lawyers, Kakalec said.

"We can enforce the minimum wage laws, but the minimum wage is not a living wage. Real change has to come from the people themselves. Lawyers can empower people to organize, but unfortunately, some lawyers hurt organizing efforts."

David Gordon