

NM Supreme Court's Decision in *Rodriguez v. Brand West Dairy*

- It is unconstitutional discrimination to exclude farm and ranch laborers from the mandatory coverage of the New Mexico Workers' Compensation Act.
- Agricultural laborers who work for farms with three or more workers are now entitled to workers' compensation insurance which provides medical care and two-thirds of their average weekly wage for time missed due to on-the-job injuries.
- Without workers' compensation, injured agricultural laborers often relied on the taxpayer-funded social safety net for their medical care. Workers who cannot afford medical care are driven into deep poverty.
- Since only 7.5% of New Mexico's agricultural employers employ three or more workers, the vast majority of agricultural operations will not be affected by the ruling.
- The 7.5% of agricultural operations (about 1800 farms) that will be affected by the ruling employ about 90% of New Mexico's farm and ranch laborers (about 15,000 laborers).
- The cost of providing workers' compensation to farm and ranch laborers is approximately 1% of the industries profits.
- Workers' compensation premiums are payroll based, so coverage is only mandated for paid employees. Therefore, volunteer labor of family members or neighbors does not mandate workers' compensation coverage.
- Due to the "exclusive remedy" provision of the New Mexico Workers' Compensation Act, employers who cover their employees with workers' compensation insurance are protected against negligence lawsuits arising out of on-the-job injuries suffered by their employees



Guest Columns

Workers' comp ruling is fair, compassionate

By Kyle Roberts / Albuquerque Resident

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Until June 30, New Mexico's farms and ranches were exempted from providing workers' compensation insurance for their laborers. The exemption ended when the state Supreme Court ruled that it is discriminatory to exclude those laborers from protections provided to other agricultural workers.

There is a lot of confusion about how the Supreme Court's ruling will affect small farms. What does this change mean for New Mexico's farms and ranches? Most of our farms and ranches will be unaffected by the ruling of the court.

Under the ruling, the state Workers' Compensation Act now requires any agricultural business that employs three or more paid workers to provide employees with workers' compensation insurance. Businesses that have less than three paid workers, including owners, are exempt and do not have to provide coverage for their workers.

Additionally, New Mexico's farms and ranches won't have to obtain workers compensation coverage when family members "do chores" or friends and neighbors volunteer to work without pay. Thus, the "culture of neighboring" is supported in the Supreme Court's ruling recognizing the importance of this rural cultural tradition – neighbors helping one another with work – as at harvest time or during the calving season.

Workers' compensation premiums are payroll-based. The New Mexico Supreme Court also recognized that small farms are protected on page 41 of its opinion:

"According to the 2012 Census of Agriculture created by the United States Department of Agriculture, 1,864 of the 24,721 'farms' in New Mexico employ three or more workers, which means that only the largest 7.5% of farms benefit from the exclusion. Therefore, the exclusion does not even apply to approximately 92.5% of the farms in the state because they have fewer than three employees."

Which businesses will be affected financially? Under the court's ruling, roughly 1,800 agricultural businesses will now be required to provide workers compensation coverage for laborers, as all other businesses in New Mexico.

Many of these businesses are large corporations, some among the largest dairies in the country. These large corporate farms, ranches and dairies employ approximately 90 percent of the agricultural laborers in our state.

I don't employ workers on my farm and will not have to pay for workers compensation insurance coverage. I know that some small agricultural businesses, with just three or four employees, will have a tougher time with the additional cost of providing workers' compensation insurance. There are many varying estimates as to the actual cost. At this time it is difficult to know.

Nonetheless, we should all recognize that this change in law is a step toward fairness and will likely have a significant impact on the working poor, who labor in our fields and on our ranches.

Agricultural workers are like you and me – they want to live a decent life and to provide for their children and families. They work long, hard hours, many under dangerous working conditions.

As some of the poorest workers in our state, being injured on the job and possibly incurring medical costs or missing even a few days of work can be devastating to the laborer and their family. If they must turn to the public "safety net" for help, the cost of this assistance (that under equal treatment, would be covered by workers' compensation insurance) is borne by taxpayers.

As an owner of a small farm in Bernalillo County, I understand the importance of keeping costs down. But we can't allow the mistreatment of any workers in our state.

All workers across the state of New Mexico must be treated fairly and equitably, with equal protection under the law – at every level of employment.