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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

FAMILIAS UNIDAS POR LA JUSTICIA,

Plaintiff,

v.

SAKUMA BROTHERS FARMS, INC.,

Defendant.

No.

PLAINTIFF'S COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

I. PRELIMINARY STATEMENT

1. Plaintiff is an association of migrant and seasonal farm workers seeking to self-organize and improve their working conditions. They seek protection from this Court under Washington's Little Norris-LaGuardia Act to be free from interference and coercion by Defendant Sakuma Brothers Farms, Inc., so that they may be allowed to apply for work and obtain family housing for the 2014 season. They also seek relief from housing discrimination under the Washington Law Against Discrimination.

II. JURISDICTION AND VENUE

- 2. This Court has original jurisdiction over this action pursuant to RCW 2.08.010.
- 3. Venue is proper pursuant to RCW 4.12.025(1).

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III. PARTIES

4. Familias Unidas por la Justicia is a Washington Association formed for the purpose of collective action and concerted activity with regard to wages hours and working conditions.

5. Defendant Sakuma Brothers Farms, Inc., is a Washington limited liability corporation that owns and operates berry fields in Burlington, Skagit County, Washington.

IV. STATEMENT OF FACTS

General Background – Work & Housing at Sakuma

6. Defendant Sakuma Brothers Farms, Inc., owns and operates berry fields in and around Burlington, Washington.

7. Defendant employs hundreds of migrant and seasonal farm workers each year to harvest berries.

8. Defendant has regularly provided housing for both families and single individuals in the labor camps it owns and operates in and around Burlington, Washington, to its migrant workforce as part of their employment.

9. Workers typically begin contacting the Defendant in April or May to express interest in work for the upcoming season, to learn when housing will become available, and determine the first day of work.

10. Defendant typically opens up its labor camps in June each year to allow workers and their families to move in before the harvest season begins.

2013 Harvest Season

11. Throughout the 2013 harvest season, there were repeated labor disputes and strikes

1 over basic wages and working conditions at Sakuma.

2 12. On or about July 11, 2013, approximately 250 farm workers joined together to
3 improve their working conditions at the Defendant's farms and formed a group called "Familias
4 Unidas por la Justicia."

5 13. Many members of of Familias Unidas are married and have children, and their
6 families have lived in Sakuma housing during the entire housing season for years.

7 14. On or about July 11, 2013, a leadership committee was elected to represent Plaintiff
8 Familias Unidas in their negotiations to improve their working conditions at the Defendant's
9 farms.

10 15. Ramon Torres was elected as one of the members of the leadership committee.

11 16. On or about July 12, 2013, the members of Familias Unidas went on strike to
12 request increased pay and better working conditions.

13 17. Throughout July, August and September, Plaintiffs continued to negotiate with the
14 Defendant to improve their wages and working conditions.

15 18. Throughout July, August and September, the Plaintiffs held regular meetings in the
16 labor camps to inform workers of their progress and develop future plans.

17 19. On or about September 17, 2013, Defendant hired security guards to patrol the labor
18 camps where the Plaintiffs resided.

19 20. Because members of Familias Unidas were intimidated by the presence of the
20 security guards and Sakuma refused to remove them from the labor camps, Familias Unidas filed
21 a lawsuit in Skagit County Superior Court to obtain emergency injunctive relief.

22 21. On September 24, 2013, an emergency hearing was held with affidavits submitted
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1 by both parties as well as argument from counsel.

2 22. On September 25, 2013, the Hon. John Meyer issued a Temporary Restraining
3 Order against Sakuma to remove the security guards finding the “Defendants’ actions . . . have
4 the effect of intimidating the Plaintiffs and of chilling the exercise of their rights protected by
5 Ch. 49.32 RCW [Washington’s Little Norris LaGuardia Act].”

6 23. On October 7, 2013, the Hon. John Meyer entered a permanent injunction order
7 enjoining Sakuma from placing guards at worker housing and following workers or supporters
8 on public roads.

9 24. Members of Familias Unidas continued to work through the end of the 2013 harvest.

10 **2013 - Sakuma’s Use of Foreign H-2A Workers**

11 25. During the 2013 harvest season, Sakuma applied to the federal Department of Labor
12 to bring in 160 foreign workers under the H-2A program.

13 26. The H-2A program can only be used if there is a labor shortage.

14 27. The H-2A program is for seasonal workers, not year-round workers.

15 28. Employers that choose to use the H-2A program must re-apply each year to obtain
16 certification of foreign workers.

17 29. The Department of Labor granted Sakuma certification to bring in 160 H-2A
18 workers from Mexico.

19 30. On information and belief, Sakuma brought approximately 70 H-2A workers from
20 Mexico in August, 2013.

21 31. The H-2A workers were placed in segregated housing at Sakuma’s labor camps.

22 32. The H-2A workers worked in separate crews throughout their employment at
23

1 Sakuma.

2 33. The H-2A workers finished the harvest season on approximately October 15, 2013
3 and returned to Mexico.

4 **2014 Labor Situation**

5 34. During the off season, Familias Unidas made numerous attempts to meet with
6 Sakuma to develop a workable contract for the 2014 harvest season.

7 35. Sakuma rebuffed all request from Familias Unidas.

8 36. In April, as is their general practice, members of Familias Unidas began contacting
9 Sakuma about their availability for work for the 2014 harvest season.

10 37. Members of Familias Unidas were worried that Sakuma would try to expand its use
11 of H-2A foreign workers in 2014 in an effort to retaliate against Familias Unidas members and
12 eliminate them from the workforce.

13 38. During March and April, Familias Unidas gathered approximately 460 letters from
14 its members stating their intention to return to work for Sakuma in 2014.

15 39. On or about the middle of April, all letters were personally delivered to Ryan
16 Sakuma, president of Sakuma.

17 40. In approximately late March or early April, Sakuma applied to the federal
18 Department of Labor for 438 foreign H-2A workers.

19 **April 21, 2014 No Minors, No Housing Letter**

20 41. On or about April 21, 2014 Sakuma mailed or otherwise provided letters to
21 members of Familias Unidas informing them that work at Sakuma was scheduled to begin on
22 June 18, 2014.
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1 42. The April 21 letter stated Sakuma would no longer hire anyone under the age of 18.

2 43. The April 21 letter stated that Sakuma would no longer provide housing to families.

3 44. The April 21 letter stated that Sakuma was segregating housing as "Male Only" or
4 "Female Only" and would not provide housing for married couples.

5 45. Upon information and belief, Sakuma wrote and delivered the April 21 letter to
6 discourage Familias Unidas members who are married or have children from obtaining work at
7 Sakuma in 2014.

8 **April 23, 2014 "Abandoned" Work Letter**

9 46. On or about April 23, 2014 Sakuma mailed 379 letters to members of Familias
10 Unidas informing them that Sakuma reported their name to the Department of Labor as an
11 employee who "abandoned" work in 2013.

12 47. The April 23 letter stated the worker had an unexcused absence of five (5)
13 consecutive days in 2013.

14 48. The April 23 letter stated the worker was ineligible for re-hire at Sakuma.

15 49. Prior to 2014, Sakuma did not have a practice of firing workers for unexcused
16 absences.

17 50. The only "unexcused absences" of five consecutive days in 2013 by Familias
18 Unidas members in 2013 were during strikes.

19 51. On or about September 19, 2013, after a strike by members of Familias Unidas,
20 Ryan Sakuma wrote a letter that was provided to all striking workers that stated, "We welcome
21 you all back to work."

22 52. Upon information and belief, Sakuma is falsely reporting information to the
23

1 Department of Labor in order to fabricate a labor shortage and replace Familias Unidas workers
2 with foreign H-2A workers.

3 **Irreparable Harm**

4 53. Defendant has interfered with, restrained or coerced the Plaintiffs by informing
5 workers Sakuma will not hire anyone under the age of 18.

6 54. Defendant has interfered with, restrained or coerced the Plaintiffs by informing
7 workers Sakuma will not provide housing to families.

8 55. Defendant has interfered with, restrained or coerced the Plaintiffs by informing
9 workers Sakuma will not provide housing to married persons.

10 56. Defendant has interfered with, restrained or coerced the Plaintiffs by informing the
11 Department of Labor that they abandoned work in 2013.

12 57. Defendant has interfered with, restrained or coerced the Plaintiffs by informing
13 workers that they are ineligible for work at Sakuma in 2014.

14 **Waiver of Bond**

15 58. Plaintiffs are indigent farm workers, many of whom have families with small
16 children, and their annual wages put them at or below federal poverty guidelines.

17 59. Defendant will suffer no economic injury if an injunction is issued as requested by
18 the Plaintiffs.

19
20 **V. CAUSES OF ACTION**

21 **Little Norris-LaGuardia Act – RCW 49.32**

22 60. Defendant has interfered with the Plaintiffs' right to engage in self-organization or
23 in other concerted activities for the purpose of collective bargaining by informing workers

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1 Sakuma will not hire anyone under the age of 18, in violation of RCW 49.32.020;

2 61. Defendant has interfered with the Plaintiffs' right to engage in self-organization or
3 in other concerted activities for the purpose of collective bargaining by informing workers
4 Sakuma will not provide housing to families, in violation of RCW 49.32.020.

5 62. Defendant has interfered with the Plaintiffs' right to engage in self-organization or
6 in other concerted activities for the purpose of collective bargaining by informing workers
7 Sakuma will not provide housing to married persons, in violation of RCW 49.32.020.

8 63. Defendant has interfered with the Plaintiffs' right to engage in self-organization or
9 in other concerted activities for the purpose of collective bargaining by informing the
10 Department of Labor that they abandoned work in 2013, in violation of RCW 49.32.020.

11 64. Defendant has interfered with the Plaintiffs' right to engage in self-organization or
12 in other concerted activities for the purpose of collective bargaining by informing workers that
13 they are ineligible for work at Sakuma in 2014, in violation of RCW 49.32.020.

14 **Washington Law Against Discrimination – RCW 49.60**

15 65. Defendant discriminated against Plaintiffs who have families with children when it
16 implemented a policy to deny housing to families in its labor camp dwellings in 2014, in
17 violation of RCW 49.60.222(1)(f).

18 66. Defendant discriminated against Plaintiffs on the basis of marital status when it
19 implemented a policy to deny housing to married persons in its labor camp dwellings in 2014, in
20 violation of RCW 49.60.222(1)(f).

21 67. Defendant discriminated against Plaintiffs when it coerced, intimidated, threatened,
22 or interfered with them in the exercise of rights secured under RCW 49.60.222, in violation of
23 RCW 49.60.2235.

1 **VI. PRAYER FOR RELIEF**

2 Plaintiffs request that this Court grant them the following relief:

3 a. Declare that Defendant's acts described above violate the Little Norris-LaGuardia Act
4 RCW 49.32 *et seq.*;

5 b. Grant temporary, preliminary and permanent relief under RCW 7.40 *et seq.* and/or
6 RCW 49.32.072, enjoining Defendant Sakuma Brothers, Inc., and all its officers, agents, and
7 employees, from (1) telling non-H2A workers that there is no work for persons under 18 years of
8 age, (2) refusing to provide housing to non-H2A worker families and married persons, (3) telling
9 non-H2A workers who worked at Sakuma in 2013 that they are ineligible for work in 2014 due
10 to unexcused absences, and (4) retaliating against Plaintiffs and Familias Unidas members
11 because of the exercise of their rights under Ch. 49.32 RCW;

12 c. Grant temporary, preliminary, and permanent relief under RCW 7.40 *et seq.* and/or
13 RCW 49.60.030(2), enjoining Defendant Sakuma Brothers, Inc., and all its officers, agents, and
14 employees, from (1) refusing to provide housing to non-H2A worker families and married
15 persons.

16 d. Exercise its discretion under RCW 4.44.470, RCW 7.40.080, and its inherent
17 authority under Wash. Const. Art. IV, § 6, to waive any bond or security because doing
18 otherwise would effectively deny Plaintiffs access to preliminary relief because of their
19 indigence; and,

20 e. Award Plaintiffs their attorney fees and costs pursuant to RCW 49.60.030(2) and any
21 other relief this Court deems just and equitable.

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1 DATED this 14th day of May, 2014.

2 

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