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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,
AFL-CIO AND UNITED FARM WORKERS
OF AMERICA,
labor organizations,

Petitioners,

vs.

WASHINGTON STATE DEPARTMENT OF
LABOR & INDUSTRIES and
WASHINGTON STATE DEPARTMENT OF
HEALTH,

Respondents.

No.

**DECLARATION OF ANJUM HAJAT
AND CATHERINE KARR**

We, Anjum Hajat and Catherine Karr, declare the following under penalty of perjury under the laws of the State of Washington.

1. I, Anjum Hajat, received my PhD in Epidemiology from the University of North Carolina and my Master in Public Health (MPH) degree from the University of Michigan. I worked in public health practice, at a local health department and the Centers for Disease Control, for seven years prior to joining academia. I have been a public health professional for 14 years. My current research focuses on the health of low wage workers.
2. I, Catherine Karr, received my PHD in Epidemiology, my Masters of Science (MS) in Environmental Health, and my Medical Degree (MD) from the University of Washington. I have been on faculty at the University of Washington in the School of Medicine and School of Public Health since 2004. I am also a practicing general pediatrician at UW Medicine Pediatric Care Center. My current research includes a focus on the health of farm worker children.
3. The Corona virus (COVID-19) is transmitted mainly through respiratory droplets. This means that if an infected person talks, sneezes or coughs on another person in close proximity they may be spreading the virus through tiny droplets in the air. Maintaining good social distancing (about 6 feet) may reduce person-to-person transmission. In addition, it is possible that persons coming into contact with infected surfaces or objects may become infected. Hand washing and disinfecting surfaces is recommended for this reason. Evidence suggests that the virus can spread easily and quickly if appropriate prevention measures are not taken.¹
4. We give these opinions relying upon our education, experience and materials that are reasonably relied upon in our professions.
5. We base our analysis below on the following information:
 - a. Farm labor camp housing typically consists of dormitory-style housing with common bathroom and kitchen facilities.
 - b. The bedrooms are often a minimum of two bunkbeds per room but can often have more depending on the size of the room. Much farmworker housing has open-style large rooms, with no separate space available for isolation of sick or exposed workers.
 - c. Washington temporary worker housing regulations ([WAC 246-358-029](#)) set a minimum of only 50 square feet of floor space per occupant. That amounts to about a seven-foot square. A standard-size twin bed occupies close to half of that space. Temporary worker housing regulations also allow beds to be closer together than six feet and within three feet of cooking surfaces. ([WAC 246-358-135](#))
 - d. H-2A temporary agricultural visa holders do not have their own transportation and rely on their employer to be transported to work daily on busses or vans. They also rely on that same transportation to be taken to the store to do grocery shopping and banking in rural towns throughout the state.
 - e. Some H-2A workers who work for large agricultural employers can sometimes spend up to 3 hours per day in close proximity to others commuting round-trip from their labor camps to various orchards throughout eastern Washington.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>

- f. Grocery shopping and banking trips usually happen on Friday evenings or weekends and can involve large groups of workers (50-100) being dropped off in parking lots of shopping areas and being given an hour or two to complete their shopping and banking needs.
 - g. Depending on the type of crop and type of work, farm workers are regularly asked to work in close proximity to (less than 6 feet away from) each other, both in packinghouse and harvest settings.
 - h. Farmworkers are often instructed to clean their own housing, buses, and workplaces. Industry representatives have stated in public meetings that cleaning supplies necessary for cleaning farmworker housing are backordered for long periods of time.
 - i. It is well documented that farmworkers, both domestic and H-2A workers, are fearful of making health and safety complaints due to a wide-spread fear of retaliation.
 - j. A recent Seattle Times article outlined worker complaints that handwashing supplies are not being provided in the fields. The same article included accounts of employers who did not provide information about prevention of COVID-19 or available paid sick leave to which workers are entitled.
 - k. The Department of Labor & Industries has released draft “fact sheets” about agriculture generally, packinghouses, and worker housing, dated April 8, 2020, which we have reviewed.
 - l. State agency staff has stated in public meetings that enforcement of the “fact sheets” will be complaint-driven, mostly due to limited enforcement staff. Farmworkers will have to complain before L&I attempts to determine whether their employer is complying.
6. Most farmworkers are living and working in rural areas, in which medical infrastructure can quickly be overwhelmed. Not only does infection of groups of farmworkers cause risk of overwhelming medical infrastructure, but visits from large groups of farmworkers to rural communities’ stores and other businesses poses a risk of transmission in those communities as a whole.
 7. Farmworkers may come to work sick with increased frequency due to fear of retaliation, economic hardship, and lack of knowledge about paid leave available to them.²
 8. Clear, specific, mandatory standards are needed to protect against the risk of COVID-19. Current draft guidance provided by the Department of Labor & Industries is unclear and in some cases contradictory. Rules should be specific and measurable. In the absence of clear, specific rules workers are unable to identify violations and thus will be unable to file complaints. (per 3l above).
 9. CDC now recommends the use of protective masks for anyone who is in close contact with others, where social distancing (at less than 6 feet distance) is difficult to maintain.³ For farmworkers this may occur in packinghouses and harvest settings as well as in living quarters. Therefore, employers should provide masks that cover workers nose and mouth and request that all workers wear masks when social distancing is difficult to maintain.

² <https://www.seattletimes.com/seattle-news/as-farm-work-carries-on-some-worry-about-becoming-the-states-new-coronavirus-epicenter/>

³ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>

10. Housing facilities that ensure one person or no more than two people per room of 150 - 200 square feet⁴ are necessary to meaningfully reduce the risk of transmission of COVID-19 in farmworker housing. People living in congregate housing such as the typical farmworker housing described above are at unique risk for the spread of COVID-19 because they are consistently in close contact with others and share bathroom and cooking facilities. Several research studies confirm that crowding increases the risk of transmission of influenza and similar illnesses.^{5 6}
 - a. If individual rooms are impractical, the number of farmworkers per room should be reduced and beds should be separated by 6 feet. Bunk beds that cannot meet this standard should be disallowed. Some have suggested using plastic sheeting on three sides of the bed and a curtain on the fourth side. This is likely to create poor ventilation which may result in abandoning the sheeting. Furthermore, studies have shown that poor ventilation increases the risk of respiratory infections.⁶
11. The number of people in vans and buses should be reduced so individuals can practice social distancing. Furthermore, employers should disinfect high-touch areas (handles, buttons, seat rests) with a bleach solution after every use to reduce the viability of the virus on surfaces. Since transportation on buses or vans puts people into close contact with one another, this may increase the likelihood of spread of COVID-19.
12. Farmworkers should not be relied upon to conduct critical environmental cleaning because they lack proper training, protection, and supervision. Requiring these workers to clean deviates from best practices and will likely contribute to the spread of COVID-19 in farmworker workplaces, housing, and transportation.
13. Employers should be responsible for providing housing units with bleach solutions, hand soap and additional needed cleaning supplies. Although an initial shortage of these supplies was reported, most local stores are selling these materials again.
14. Worker education about several aspects of COVID-19, i.e., how to prevent it and what to do if you think you are infected, should be provided in the language understood by the workers.
15. Employers must provide hand sanitizer/soap and water in the fields and ensure supplies are reliably replenished. A study in the military setting shows that hand-washing while working in field settings helps prevent acute respiratory infections.⁷
16. In the event a farmworker is diagnosed with COVID-19, the individual must immediately be isolated in their own housing unit with a bathroom. This will help reduce further spread of the virus.

⁴ Cedeno Laurent JG, Allen JG, McNeely E, Dominici F, Spengler JD. Influence of the residential environment on undergraduate students' health. *J Expo Sci Environ Epidemiol*. 2020 Mar;30(2):320-327.

⁵ Tsuang W M, Bailar JC, Englund JA. Influenza-like symptoms in the college dormitory environment: a survey taken during the 1999-2000 influenza season. *J Environ Health*. 2004 Apr;66(8):39-42, 44.

⁶ Sun Y, Wang Z, Zhang Y, Sundell J. In China, students in crowded dormitories with a low ventilation rate have more common colds: evidence for airborne transmission. *PLoS One*. 2011;6(11):e27140.

⁷ Kim HS, Ko RE, Ji M, Lee JH, Lee CS, Lee H. The usefulness of hand washing during field training to prevent acute respiratory illness in a military training facility. *Medicine (Baltimore)*. 2018 Jul;97(30):e11594.

17. Farmworkers who demonstrate symptoms consistent with COVID-19, such as cough, fever, shortness of breath, fatigue, body ache, should be tested for COVID-19, put in isolation and prevented from further work until test results are known. The CDC recommendations for when to discontinue self-isolation can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>
18. For older workers (50 +) and those with preexisting conditions (e.g., hypertension, diabetes, asthma, tuberculosis) we recommend strictly following housing guidelines (1 person per room of 150 square feet) and providing work that allows for effective social distancing. These individuals should seek medical care immediately as potential for COVID-19 related complications is higher. In WA State the highest number of COVID-19 cases (35%) is among those 40 - 59 years old, indicating middle-aged individuals are at higher risk.⁸ One report suggests that about 34% of farmworkers are older than 45 years old.⁹ Some research indicates that farmworkers have a higher prevalence of TB¹⁰ and have higher exposure to agricultural dust which has been shown to result in a variety of respiratory conditions.¹¹ These conditions which may be more unique to farmworkers would put them at higher risk for complications of COVID-19.
19. Given the possibility of asymptomatic transmission, that is an infected person with no symptoms spreads the virus to others, it is possible that infections among farmworkers will spread undetected within the farmworker community for many days. Furthermore, asymptomatic persons who visit public places on weekends risk spreading the virus to the neighboring community.¹²
20. Because H-2A workers are dependent on their employers for transportation, these employers should be responsible for immediately transporting workers who show symptoms for testing. If testing facilities are unavailable or at capacity, employers should make every effort to facilitate contact between the worker and the health care provider. Employers should also provide workers who are subsequently isolated or quarantined with adequate food and water.
21. Farm workers have limited financial resources and loss of work can have devastating economic consequences. According to the most recent data from the National Agricultural Workers Survey, farmworkers' mean and median personal incomes the previous year were \$17,500 and \$19,999, respectively. Fourteen percent of workers said their total personal income was less than \$10,000, 29% said they had personal incomes of \$10,000 to \$19,999, another 29% had personal incomes of \$20,000 to \$29,999, and 14% reported that their total personal income was \$30,000 or more.⁹ As such, to the extent possible, symptomatic workers with COVID-19 diagnosis should be supported financially until their illness passes.

⁸ <https://www.doh.wa.gov/Emergencies/Coronavirus>

⁹ Hernandez T, Gabbard S. Findings from the national agricultural workers survey (NAWS) 2015-2016: a demographic and employment profile of United States farmworkers. JBS International, Research Report; 2019.

¹⁰ The National Center for Farmworker Health. Tuberculosis fact sheet. 2018

¹¹ Schenker MB, Pinkerton KE, Mitchell D, Vallyathan V, Elvine-Kreis B, Green FH. Pneumoconiosis from agricultural dust exposure among young California farmworkers. *Environmental health perspectives*. 2009 Jun;117(6):988-94.

¹² Mizumoto K, Kagaya K, Zarebski A, Chowell G. Estimating the asymptomatic proportion of coronavirus disease 2019 (COVID-19) cases on board the Diamond Princess cruise ship, Yokohama, Japan, 2020. *Eurosurveillance*. 2020 Mar 12;25(10):2000180.

Signed April 14, 2020 at Seattle, Washington.



Anjum Hajat, PhD, MPH



Catherine Karr, MD, PHD