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Columns

ECLECTIC RANT: Precedent-Setting Human Trafficking Case

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When most people think of human trafficking, they envision victims trafficked into the international sex trade. But consider the complaint filed by the Southern Poverty Law Center in the class action case of Mairi Nunag-Tañedo, et al. v. East Baton Rouge Parish School Board, et al. , filed in the U.S. District Court in Los Angeles under the federal Trafficking Victims Protection Act (TVPA), 18 U.S.C. §1589, et seq.

The Plaintiffs in this case are 350 Filipino teachers who were recruited by Universal Placement International, Inc. located in Los Angeles and PARS International Placement Agency located in Quezon City, Philippines, to work in Louisiana public schools.

From 2006 to the filing of the lawsuit in 2010, the defendants recruited experienced Filipino teachers to work in Louisiana public schools under the H-1B guestworker visa program. Most of the teachers had to borrow money to pay the recruiting fees, which ranged from \$5,000 to \$5,500. This is about one and half times the average annual income in the Philippines. The teachers were not told until after the first fee had been paid that they would be required to pay the first three months of their projected salary before they could leave for the United States. The first two months was collected in advance. The third month's salary was to be collected after the first year of employment. If the teachers resisted paying the third month's salary, they were threatened with being sent back to the Philippines and losing the thousands they had already paid.

Thus, initially the Plaintiffs believed they would have to pay only an upfront fee of \$5,000 to \$5,500. But once that was paid, they were then told that they had to pay another amount equal to three months projected salary, and had to pay their airfare. They paid upward of \$16,000 for their teaching positions.

Most of the teachers had to borrow the money to pay the recruiting fees. The recruiters referred the teachers to private lenders who charged 3 to 5 percent per month. At this point, the teachers had no choice but to pay these exorbitant fees as they had already paid a substantial amount that would not be returned. The recruiters kept their visas and passports until all the money was paid.

In May 2011, U.S. District Court Judge Andrew J. Guilford set a historic precedent by granting class action status to a human trafficking lawsuit involving these 350 Filipino teachers. In reaching his decision, the Court concluded that it is sufficient that a defendant's misconduct has created a situation where ceasing labor would cause a plaintiff serious harm. Further, human trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion. In other words, the TVPA not only protects victims from the most heinous human trafficking crimes, but also various additional types of fraud and extortion leading to forced labor. And in this case, the complaint alleges that psychological coercion such as seizing immigrants' passports to restrict their ability to flee, threats to fire Plaintiffs, sue them, allow their visas to expire, or deport them over various issues that generally concerned complaints about living conditions and pay.

The trial is set to begin in July 2012.



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