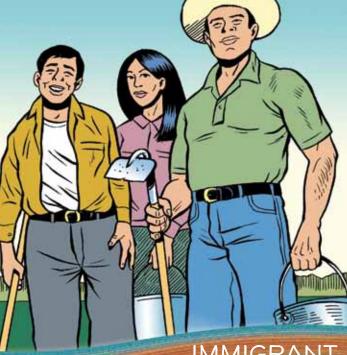
KNOW YOUR RIGHTS!





IMMIGRANT JUSTICE PROJECT

2006-07 EDITION

Written and distributed by: Immigrant Justice Project Southern Poverty Law Center 400 Washington Avenue Montgomery, Alabama 36104 www.SPLCenter.org

Toll-free in the United States 1-800-591-3656 From Mexico OO1-800-591-3656 Collect from Guatemala 147-120 for the operator, OO1-334-956-8321

IMMIGRANT JUSTICE PROJECT

We are a project designed to combat abuses against immigrant farmworkers. We fight for immigrant workers' rights. We are part of the Southern Poverty Law Center, an organization that has committed to work and fight for civil rights for more than 30 years. We do not receive any funding from the government. Our financing comes from private funds only.

Our services are completely free.

We are independent from the government and employers.

We have extensive experience in civil rights and workers' rights, and we have the resources to combat the injustices that you may suffer as workers.

We are here to support you and serve you.

It does not matter whether or not you have legal immigration papers!

You still have human rights, and we are here to serve you.

Call us to ask any questions about your rights as workers or to report any problems of mistreatment by the police or the government. We work on cases related to injustices in the workplace.

We speak Spanish.

All conversations are confidential.

THE CALLS ARE TOLL-FREE In the U.S. 1-800-591-3656 From Mexico 001-800-591-3656 Collect from Guatemala 147-120 for the operator, 001-334-956-8321

We do not handle criminal or immigration cases.



INTRODUCTION TO YOUR RIGHTS

One of the main problems that farmworkers face here is that they do not receive the salary, housing or the work promised to them. There are some federal laws that protect you as a migrant farm worker. Under these laws there are many rules that the crew leaders and employers must follow. The majority of farmworkers have rights under these laws. It is very important that you know your rights. If you speak another language and come from another country, sometimes crew leaders or employers take advantage of you.

It does not matter if you do not have legal immigration papers.

Know your rights in order to be protected. This booklet will serve as a guide for you. If you have any questions or doubts or you think that something at work is not being done fairly, you can call this TOLL-FREE number:

In the U.S. 1-800-591-3656 From Mexico 001-800-591-3656

TRANSPORTATION TO WORK

If you were recruited by your employer or crew leader to work in a place that's different from where you normally live, you should be reimbursed for most of your travel expenses. This reimbursement is owed to you in the first workweek. There are some exceptions and you should call our toll-free number with any questions.

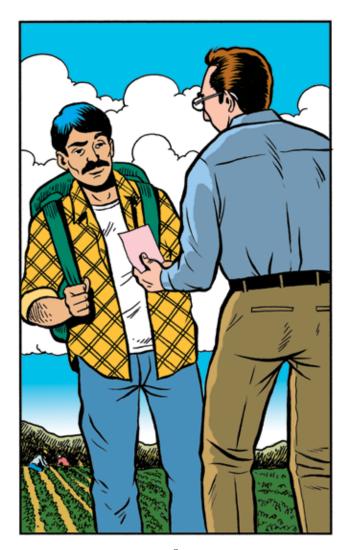
DETAILS OF WORK IN WRITING

You have the right to a *written explanation* from the employer or crew leader who offered you the job, describing the details and rules of the work. The document should be written in your language. If the boss or crew leader changes working conditions to something different than what was promised, you can refer to this disclosure and have it as proof of what was promised. The disclosure should inform you of the following:

- Where exactly you are going to work
- What kind of work you are going to do
- How much you are going to get paid
- What time the work day starts and ends
- If housing is provided
- The housing arrangements
- Whether you have to pay for transportation to work
- Whether they will provide workers' compensation

Always keep track of your hours in a notebook. With this information, you can compare the salary that you receive with the hours recorded in your pay stubs. You can use the calendar at the end of this booklet to keep track of your hours, the number of products you picked and dates of your work.

If the employer or crew leader promises a complete harvest, you should have work for the whole season. If the employer or crew leader promises housing, you should be provided with proper living conditions. If the employer or crew leader promises \$300 per week, you should receive this amount. If they do not



comply with these or other promises, you have the right to demand what is owed to you.

Your employer or crew leader cannot fire you without a good reason during the period of work promised.

CORRECT PAYMENTS

Waiting and Transportation Time

Work hours start from the moment that you arrive at the work site until the moment you leave. If the employer expects you to be at work at a certain time but there is a wait before you are able to start work, the time spent waiting should be counted towards your work hours.

There are also some workers that work in forestry and pick up trees before they go to the field. In this situation, their work time starts when they load the trees.

If you spend time waiting in the field during your work day (for example, if it rains and you have to wait a while), generally this also counts as part of the work hours.

Also, the time that you take traveling from one work site to the next once the work day has already started is time that you should be paid for.

Keep track of your hours!

Minimum Wage

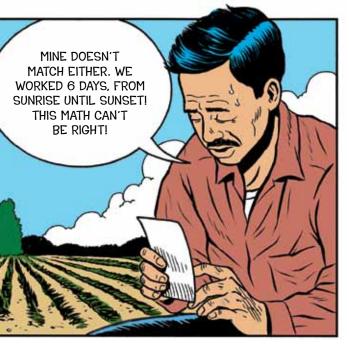
Generally, you should not receive less than the



federal minimum wage of \$5.15 per hour.

- It does not matter if you are paid by the piece or by amount of product picked.
- It does not matter if you do not have papers.
- Your employer always has to pay you a minimum of \$5.15 per hour of work.

Your employer or crew leader should raise your salary to be at least \$5.15 per hour. This is the law in the whole country with very few exceptions. Almost all farmworkers have the right to receive and demand



the federal minimum wage.

For example:

Every week, if you work 40 hours x \$5.15 an hour = \$206.00 should be your pay

50 hours x \$5.15 an hour = \$257.50

60 hours x \$5.15 an hour = \$309.00

Let's say that you work based on a piece rate and not an hourly rate. For example, you earn 40 cents per sack of onions that you harvest. In one week, you harvest 600 sacks of onions. Your pay by the sack would amount to \$240 for that work week. But, if you work 60 hours to harvest 600 sacks, your pay for that week should be \$309.00. The employer or crew leader has to pay you the difference (in this example, \$69.00) if your piecework earnings are less than the minimum wage.

Keep track of your hours!

The minimum wage for H2-B Workers

If you are a worker under an H2-B contract, the minimum wage you should receive could be a lot more than \$5.15 an hour. It does not matter if they pay you per piece, you should not receive less than the hourly wage allowed in your contract.

If your coworkers have an H2-B contract, you are usually entitled to the same rights and working conditions specified in their H2-B contract.

For example, if you are planting pine trees with H2-B workers, the minimum wage will depend on the state where you are working. It is always a lot more than \$5.15 per hour.

In 2006, the minimum hourly wage to plant pine trees on an H-2B contract was: in Alabama, \$6.89-\$13.20 per hour; in Arkansas, \$7.14-\$14.23 per hour; in South Carolina, \$5.79-\$8.71 per hour; in Georgia, \$5.79-\$8.54 per hour; in Kentucky, \$6.30-\$8.46 per hour; in Louisiana, \$9.76-\$10.41 per hour; in Mississippi, \$7.27-\$9.53 per hour; and in Tennessee, \$7.08-\$9.72 per hour.

During tree thinning, the pay should be more per hour. In other industries (like seafood, landscaping, etc.), the wage is going to be different, but there is a good chance that the minimum wage would be more than \$5.15 per hour.

Overtime or Time and a Half

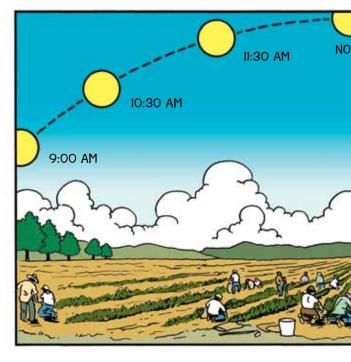
The majority of farmworkers do not have the right to overtime.

If you work planting trees, making pine bales, or in a chicken or seafood processing plant, you have the right to receive overtime. If you work in a packing shed, you may have the right to receive overtime if you pack produce from other farms.

Overtime means that you have to get paid time and a half for each hour after 40 hours worked in one week. For example, if you make \$8.00 per hour planting trees and you work 50 hours in one week, for the 10 extra hours worked you should receive \$12.00 per hour. That would be \$8.00 per hour for 40 hours and \$12.00 per hour for the extra 10 hours. Those who qualify for overtime under the law rarely receive it. Call us to find out if you should be earning overtime.

If you work in a cotton gin, you should be paid overtime for all hours over 48 hours in one week or 10 hours in one day.

This rule can also apply to those who are paid by

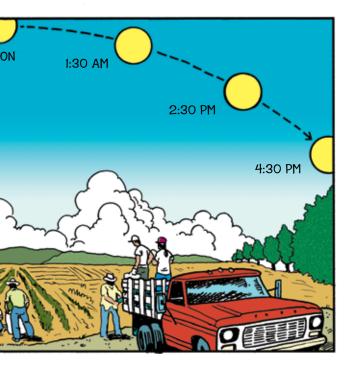


piece rate. Keep track of your hours!

CALL US if you have any questions about this right. 1-800-591-3656

PAY DEDUCTIONS

Sometimes your employer or crew leader takes deductions from your pay for various things, including your housing, transportation to work, or tools used at work.



Generally, you should be making \$5.15 per hour after the deductions. All the deductions have to be described in the written disclosure that you should have received at the time you started. If your disclosure does not explain these deductions, the deductions are not legal.

Tools

If your job requires tools or safety equipment, the cost of those tools can't bring your wage rate below the minimum wage or your overtime rate. If you pay



for the tools yourself, your employer must reimburse you if these costs bring your wages below minimum wage or your overtime rate. If you can buy the same tools or equipment elsewhere, your boss can't make you buy them from him. Any and all deductions should be documented on your pay stub.

Housing

It may be that your employer or crew leader is deducting money for the housing arrangements.

Often, they deduct too much. The amount you receive in a work week very rarely should be less than the minimum wage per each hour worked. If your pay amount is less than the minimum wage or if you think that the deduction for housing is too much, the deduction could be illegal, and you should call us.

Social Security and Taxes

Your employer or crew leader has the right to deduct from your check a percentage for the contributions to social security and federal and state taxes. If you did not provide your employer or crew leader with a social security number when you started to work, it could be that the employer or crew leader is keeping the money that he is deducting from your check, and this is illegal. If this is the case, call us.

PAY STUBS

You should receive a pay stub every time you receive a payment. Every pay stub should include the following information:

- Your name
- · Your employer's name
- · Your employer's address
- Your employer's identification number for federal taxes
- How much you get paid per hour or per piece
- The total amount of hours worked each week
- All the deductions made and the description (example: meals, transportation, taxes, social security, etc.)

- Total amount of pay before the deductions
- Net pay (after deductions)

If the work is paid by piece rate, your pay stub should include the hours worked and the number of pieces done during each pay period.

Always keep your pay stubs, and also write down the hours you work.

HOUSING

Housing may be provided by an employer or crew leader. Housing should meet the following legal requirements:

- · Stable structure
- · Free of insects and rodents
- · Away from garbage
- · Clean toilets
- Running water
- Beds for each person raised off the floor
- Electricity in each room
- Kitchen containing refrigerator and stove (unless your employer provides meals)

You must be charged a fair price for the housing.

There are additional requirements. If you have any questions regarding housing conditions, call us. It could be that you are paying too much for your

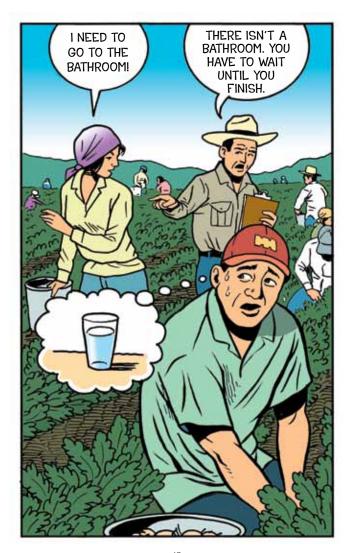




housing. All the terms and conditions should be detailed in the initial disclosure that you receive.

SANITATION AND YOUR HEALTH AT WORK

You have the right to a clean and safe work place. The employer should provide and maintain a bathroom near the work site. The employer should provide a place where you can wash your hands after using pesticides. There should also be clean water for drinking and disposable cups. Here in the South, it gets very hot in the summer. It is very important to drink a lot of fluids during the workday. You are working very hard and deserve to have clean water to drink during the day.



PROTECTION AGAINST DISCRIMINATION OR RETALIATION FOR COMPLAINTS

Many employers or crew leaders want workers to be too afraid to complain about problems at work. They want the workers to be afraid to lose their jobs.

It is a good idea to first talk to a lawyer and see how the law can protect you before you complain.

In general, the employer or crew leader cannot fire you or evict you from your housing for complaints regarding the condition of the job or the housing arrangements!

The law calls this retaliation or discrimination, and it is illegal. But, as you know, this can happen even if it is illegal. If this happens to you or someone else, CALL US.

The most important right you have is your right to complain about the conditions at work. Call us toll-free from any telephone 1-800-591-3656 From Mexico – 001-800-591-3656

DISCRIMINATION AT WORK

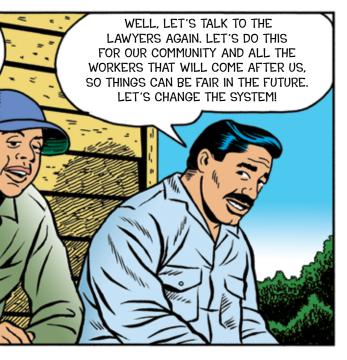
It is illegal for an employer or crew leader to discriminate against you or your co-workers. Everybody has the right to work free of discrimination, even if they do not have papers.



It is illegal to discriminate based on race, gender, disability, country of origin, color, or religion.

If you have been fired, denied promotions, mistreated, or given different jobs from everyone else due to your race, gender, religion, or for any possibly illegal reason, call us to seek advice.

No one — not the employer, crew leader or any other supervisor — has the right to bother or assault



a female (or male) worker in a sexual manner. A worker should never be sexually harassed. This is a severe violation of the law.

PASSPORTS AND IDENTIFICATION

Neither the employer nor the crew leader can keep your passport or any other type of identification if you do not want them to. These are your documents, and you have the right to keep them with you.



IN CASE OF AN ACCIDENT

If you get injured while working, it is possible that you have rights to medical services paid for by your employer or crew leader. If this happens, please call a lawyer to find out about your rights.

THE RIGHT TO LEAVE

It is important to know that you can leave your housing when you want to go shopping or to church or wherever else you want to go. In addition, you always have the right to leave your job any time for any reason, even if you owe money to your employer or crew leader.

YOUR RIGHTS WITH IMMIGRATION AND POLICE

Everybody has basic constitutional rights in the United States even if they are not American citizens:

- The right to remain silent and not answer questions from immigration officers or the police. You only have to give your real full name.
- If the police have detained you: you do not have to tell whether or not you have papers or where you are from. Request to speak to a lawyer immediately. If you do not have the resources to hire a lawyer, you have the right to obtain free legal representation. You also have the right to communicate with the consulate of your country of origin. You can demand that immigration or the police provide the phone number to your consulate.

• If you have been detained by immigration officers: you do not have to tell whether or not you have papers or where you are from. Request to speak to a lawyer immediately. If you do not have a lawyer, call a friend who can help you find a lawyer. You also have the right to communicate with the consulate of your country of origin. You can demand that they provide the phone number to your consulate.

You do not have to tell anyone whether you have papers or not!

It is *very* dangerous to use fake documents with the police, immigration officers, or with any branch of the government!

If you are detained by the police in your vehicle:

- Show your driver's license (if it is valid), your registration and proof of insurance, if they request it.
- If you get a ticket, sign it. If you do not do this, you can be arrested.
- In some cases, the police can search your car without a warrant if they have a probable cause. If you want to protect yourself from being searched, you have to tell the police that you do not give them your permission to search your car.

If the police or immigration goes to your house:

• You do not have to let the police or immigration

officers enter your house unless they have a written authorization to search or an order signed by a judge.

• In some emergency cases, the police can enter without the written authorization of a judge.

YOUR CHILDREN'S RIGHTS

Your children have the right to attend the public schools in your state free of charge. They have the right to attend school regardless of their immigration status. It does not matter if you, your spouse, or your children do not have immigration papers.

Public schools cannot deny registration if a child does not have a social security number. Call us if you encounter a problem with this.

Your children also have the right to a meaningful education. If they do not speak much English, this may mean that the school system should provide special services to help them learn English. They may have to hire an interpreter to be able to communicate with you regarding your children's education.

In general, agencies that receive federal funding are required to provide significant access to their services for everyone, even if the people requesting the services do not speak English. For example, if your children have the right to receive food stamps, but you do not speak English, the agency has to find a reasonable way to communicate with you in Spanish. The law states that making your children serve as translators usually is not a reasonable way to provide those services.

HOW TO LEAVE US A MESSAGE IF WE DO NOT ANSWER THE PHONE

Sometimes when you call 1-800-591-3656, our answering machine will pick up. There is a Spanish message. Listen to the complete message, and please leave your message too.

- Wait for the tone.
- Speak clearly and slowly.
- Leave your first and last name (this will be kept confidential).
- Let us know where you are calling from. For example: say your address or name of your city, or the name of the farm or place where you are working.
- Leave your phone number if you have one. You can leave the number of your neighbor or someone you know.
- · Let us know what time you are calling us back.
- Briefly explain your problem.
- There are only three minutes to leave a message, but you can call back and leave a second message.

This is very important! We want to get in touch with you, and we need an accurate message so that we can serve you as soon as possible!

In U.S. 1-800-591-3656 From Mexico 001-800-591-3656 From Guatemala 147-120 for the operator, 001-334-956-8321

JANUARY 2006

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Sunday	1						
Monday	2						
Tuesday	3						
Wednesday	4						
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FEBRUARY 2006

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Wednesday	1						
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MARCH 2006

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APRIL 2006

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
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MAY 2006

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JUNE 2006

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JULY 2006

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AUGUST 2006

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SEPTEMBER 2006

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OCTOBER 2006

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NOVEMBER 2006

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DECEMBER 2006

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JANUARY 2007

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FEBRUARY 2007

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MARCH 2007

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Monday	19						
Tuesday	20						
Wednesday	21						
Thursday	22						
Friday	23						
Saturday	24						
Sunday	25						
Monday	26						
Tuesday	27						
Wednesday	28						
Thursday	29						
Friday	30						
Saturday	31						

APRIL 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Sunday	1						
Monday	2						
Tuesday	3						
Wednesday	4						
Thursday	5						
Friday	6						
Saturday	7						
Sunday	8						
Monday	9						
Tuesday	10						
Wednesday	11						
Thursday	12						
Friday	13						
Saturday	14						
Sunday	15						
Monday	16						
Tuesday	17						
Wednesday	18						
Thursday	19						
Friday	20						
Saturday	21						
Sunday	22						
Monday	23						
Tuesday	24						
Wednesday	25						
Thursday	26						
Friday	27						
Saturday	28						
Sunday	29						
Monday	30						

MAY 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Tuesday	1						
Wednesday	2						
Thursday	3						
Friday	4						
Saturday	5						
Sunday	6						
Monday	7						
Tuesday	8						
Wednesday	9						
Thursday	10						
Friday	11						
Saturday	12						
Sunday	13						
Monday	14						
Tuesday	15						
Wednesday	16						
Thursday	17						
Friday	18						
Saturday	19						
Sunday	20						
Monday	21						
Tuesday	22						
Wednesday	23						
Thursday	24						
Friday	25						
Saturday	26						
Sunday	27						
Monday	28						
Tuesday	29						
Wednesday	30						
Thursday	31						

JUNE 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Friday	1						
Saturday	2						
Sunday	3						
Monday	4						
Tuesday	5						
Wednesday	6						
Thursday	7						
Friday	8						
Saturday	9						
Sunday	10						
Monday	11						
Tuesday	12						
Wednesday	13						
Thursday	14						
Friday	15						
Saturday	16						
Sunday	17						
Monday	18						
Tuesday	19						
Wednesday	20						
Thursday	21						
Friday	22						
Saturday	23						
Sunday	24						
Monday	25						
Tuesday	26						
Wednesday	27						
Thursday	28						
Friday	29						
Saturday	30						

JULY 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Sunday	1						
Monday	2						
Tuesday	3						
Wednesday	4						
Thursday	5						
Friday	6						
Saturday	7						
Sunday	8						
Monday	9						
Tuesday	10						
Wednesday	11						
Thursday	12						
Friday	13						
Saturday	14						
Sunday	15						
Monday	16						
Tuesday	17						
Wednesday	18						
Thursday	19						
Friday	20						
Saturday	21						
Sunday	22						
Monday	23						
Tuesday	24						
Wednesday	25						
Thursday	26						
Friday	27						
Saturday	28						
Sunday	29						
Monday	30						
Tuesday	31						

AUGUST 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Wednesday	1						
Thursday	2						
Friday	3						
Saturday	4						
Sunday	5						
Monday	6						
Tuesday	7						
Wednesday	8						
Thursday	9						
Friday	10						
Saturday	11						
Sunday	12						
Monday	13						
Tuesday	14						
Wednesday	15						
Thursday	16						
Friday	17						
Saturday	18						
Sunday	19						
Monday	20						
Tuesday	21						
Wednesday	22						
Thursday	23						
Friday	24						
Saturday	25						
Sunday	26						
Monday	27						
Tuesday	28						
Wednesday	29						
Thursday	30						
Friday	31						

SEPTEMBER 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Saturday	1						
Sunday	2						
Monday	3						
Tuesday	4						
Wednesday	5						
Thursday	6						
Friday	7						
Saturday	8						
Sunday	9						
Monday	10						
Tuesday	11						
Wednesday	12						
Thursday	13						
Friday	14						
Saturday	15						
Sunday	16						
Monday	17						
Tuesday	18						
Wednesday	19						
Thursday	20						
Friday	21						
Saturday	22						
Sunday	23						
Monday	24						
Tuesday	25						
Wednesday	26						
Thursday	27						
Friday	28						
Saturday	29						
Sunday	30						

OCTOBER 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Monday	1						
Tuesday	2						
Wednesday	3						
Thursday	4						
Friday	5						
Saturday	6						
Sunday	7						
Monday	8						
Tuesday	9						
Wednesday	10						
Thursday	11						
Friday	12						
Saturday	13						
Sunday	14						
Monday	15						
Tuesday	16						
Wednesday	17						
Thursday	18						
Friday	19						
Saturday	20						
Sunday	21						
Monday	22						
Tuesday	23						
Wednesday	24						
Thursday	25						
Friday	26						
Saturday	27						
Sunday	28						
Monday	29						
Tuesday	30						
Wednesday	31						

NOVEMBER 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Thursday	1						
Friday	2						
Saturday	3						
Sunday	4						
Monday	5						
Tuesday	6						
Wednesday	7						
Thursday	8						
Friday	9						
Saturday	10						
Sunday	11						
Monday	12						
Tuesday	13						
Wednesday	14						
Thursday	15						
Friday	16						
Saturday	17						
Sunday	18						
Monday	19						
Tuesday	20						
Wednesday	21						
Thursday	22						
Friday	23						
Saturday	24						
Sunday	25						
Monday	26						
Tuesday	27						
Wednesday	28						
Thursday	29						
Friday	30						

DECEMBER 2007

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Saturday	1						
Sunday	2						
Monday	3						
Tuesday	4						
Wednesday	5						
Thursday	6						
Friday	7						
Saturday	8						
Sunday	9						
Monday	10						
Tuesday	11						
Wednesday	12						
Thursday	13						
Friday	14						
Saturday	15						
Sunday	16						
Monday	17						
Tuesday	18						
Wednesday	19						
Thursday	20						
Friday	21						
Saturday	22						
Sunday	23						
Monday	24						
Tuesday	25						
Wednesday	26						
Thursday	27						
Friday	28						
Saturday	29						
Sunday	30						
Monday	31						

JANUARY 2008

Day	Date	Start time	Time for lunch	Stop time	Total hours worked	Number of pieces	Pay by piece rate
Tuesday	1						
Wednesday	2						
Thursday	3						
Friday	4						
Saturday	5						
Sunday	6						
Monday	7						
Tuesday	8						
Wednesday	9						
Thursday	10						
Friday	11						
Saturday	12						
Sunday	13						
Monday	14						
Tuesday	15						
Wednesday	16						
Thursday	17						
Friday	18						
Saturday	19						
Sunday	20						
Monday	21						
Tuesday	22						
Wednesday	23						
Thursday	24						
Friday	25						
Saturday	26						
Sunday	27						
Monday	28						
Tuesday	29						
Wednesday	30						
Thursday	31						

NOTES:

The previous information is to be used as a guide of basic rights for farmworkers in the South. The content of this booklet is not legal advice nor does it intend to take the place of legal counseling. It does not describe every right you may have. If you want to talk to us, please call our toll-free number 1-800-591-3656. We are here to assist you with the civil rights discussed in this booklet.

HOW TO LEAVE US A MESSAGE IF WE DO NOT ANSWER THE PHONE

Sometimes when you call 1-800-591-3656, our answering machine will pick up. There is a Spanish message. Listen to the complete message, and please leave your message too.

- · Wait for the tone.
- · Speak clearly and slowly.
- Leave your first and last name (this will be kept confidential).
- Let us know where you are calling from. For example: say your address or name of your city, or the name of the farm or place where you are working.
- Leave your phone number if you have one. You can leave the number of your neighbor or someone you know.
- · Let us know what time you are calling us back.
- Briefly explain your problem.
- There are only three minutes to leave a message, but you can call back and leave a second message.

This is very important! We want to get in touch with you, and we need an accurate message so that we can serve you as soon as possible!

In U.S. 1-800-591-3656

From Mexico 001-800-591-3656 From Guatemala 147-120 for the operator, 001-334-956-8321

IMMIGRANT JUSTICE PROJECT