

April 20, 2018

Hearing on Civil Rights in California's Central Valley
Hugh Burns State Building
2550 Mariposa Street
Fresno, CA

**Statement of Ana de Alba
Shareholder, Lang, Richert & Patch, P.C.**

Fair Employment and Housing Councilmembers Mandelbaum, Brodsky, Cisneros, Iglesias, Ortiz, and Schur, and Department of Fair Employment and Housing Director, Kevin Kish:

I am honored that you invited me to testify before you today. My name is Ana de Alba and I am a Shareholder at the law firm of Lang, Richert & Patch in Fresno. My practice focuses primarily on representing low wage workers, most of whom are immigrants, who have survived sexual harassment and assault in the workplace. Applying a more holistic approach to my work, I also attempt to connect these survivors with various organizations to receive adequate mental health counseling to help them cope with their assaults. In addition, I continue to work closely with other organizations to create various avenues for low wage workers to receive assistance in the Central Valley. As explained below, the Central Valley is a large geographic region whose size and landscape require a unique approach to the provision of legal services to the underserved.

1. Regional Focus – Providing Legal Assistance in Rural Areas

a. California's Central Valley

California's Central Valley covers approximately 18,000 square miles and constitutes approximately 11% of California's total land area.¹ The Valley includes all, or parts of, the following counties: Butte, Colusa, Glenn, El Dorado, Fresno, Kings, Madera, Merced, Placer, San Joaquin, Sacramento, Shasta, Solano, Stanislaus, Sutter, Tehama, Tulare, Yuba, Yolo, and Kern.² California is known for the breadth and productivity of its agriculture, especially in Central California. In fact, 15 of the Valley's counties are among the 25 most productive agricultural counties in the state.³

b. Rural Areas

In 2010, the California Commission on Access to Justice drafted a Report on "Improving Civil Justice in Rural California," finding that "access to legal services is one of the most important and often overlooked ways in which rural areas lag behind the rest of the nation."⁴ The Report defined a rural area as having "a

¹ California's Central Valley, American Museum of Natural History, <https://www.amnh.org/explore/curriculum-collections/grace/grace-tracking-water-from-space/california-central-valley>

² "A Statistical Tour of California's Great Central Valley." California Research Bureau. California State Library. Retrieved July 27, 2009, =<http://archive.is/iD6IC>.

³ Ibid.

⁴ "Improving Civil Justice in Rural California" A Report of the California Commission on Access to Justice, September 2010,

population density of less than 250 persons per square mile ... and no census defined place within the area with a population in excess of 50,000.”⁵ By this definition, the majority of the Central Valley is considered “rural” which is particularly telling since the California Commission on Access to Justice’s Report made the following findings:

- A larger percentage of rural than urban Californians are elderly;
- A larger percentage of rural than urban Californians are living with disabilities;
- A larger percentage of rural than urban Californians are low income;
- A smaller percentage of rural than urban Californians are college educated;
- Rural youth have fewer options;
- Rural access to technology is limited;
- Rural access to legal services lags behind the rest of the nation⁶

c. Scarcity of Legal Services in Rural Areas

As it relates to employment, there is a great need for education and enforcement of labor laws in rural areas. Unfortunately, although one third of low income rural people need legal services for basic human needs, the availability of legal aid is extremely sparse in rural areas and legal aid programs are only able to provide partial assistance.⁷ Unfortunately, the private bar does not fill the gap legal aid attorneys leave and instead, individuals end up forfeiting their rights.⁸ As it relates to the Central Valley, many seasonal agricultural and food processing workers are unaware of their rights or unable to enforce them without assistance. Regulatory agencies such as CalOSHA, the Department of Pesticide Regulation, the Agricultural Labor Relations Board, and the Department of Labor have limited resources, so that the enforcement of safety and wage and hour regulations is limited.⁹ Workplace injuries are also more common in rural areas and minimum wage violations are common in seasonal workplaces which are all prevalent in the Central Valley.¹⁰

2. Low Wage Workers’ Vulnerabilities

Low wage workers in rural areas face challenges in their workplace including language barriers, immigration issues, and lack of reliable public transportation, which, compounded with the sparse availability of legal aid attorneys, makes these groups particularly vulnerable. In my own practice, I have found that many of my clients do not report instances of harassment and assault in the workplace for numerous reasons. Chief among these reasons include: language barriers; the harasser’s threats that they will report survivors who complain to Immigration and Customs Enforcement (“ICE”); fear of losing their job should their employer find out that they do not have permission to work in the United States;

http://www.calbar.ca.gov/Portals/0/documents/accessJustice/CAAJ_2010_FINAL_2.pdf?ver=2017-05-19-133105-073.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Institute for America’s Future California’s Rural Communities Rely on Social Security More than Twice as Much as Urban Communities (Washington D.C.: Institute for America’s Future, 2005), 5.

fear that their families, co-workers, and employers will blame them; embarrassment; and a sense of disillusionment in the system of justice. The impact that the lack of reliable public transportation and the lag in technology we face here in the Central Valley cannot be overstated. Oftentimes, a worker must take an entire day off from work and commute in an unreliable car for several hours or navigate different bus routes through several cities to simply access legal assistance whether that be from legal aid offices, administrative agencies like the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the Employment Development Department, the Labor Commissioner, or court self-help centers. Once there, the low wage worker faces a different set of challenges like the fear of entering a government building if he/she is undocumented, being turned away because the legal aid association is funded by Legal Services Corporation and has restrictions on the types of workers it may assist; or is at capacity. As noted in the Commission on Access to Justice's Report, there are insufficient private attorneys in these rural communities to fill the gap left by the inadequate number of legal aid attorneys able to help these imperiled workers.

3. Strategies and Ideas

With the above in mind, low wage worker advocates have been working tirelessly to create programs that are specifically geared to address the challenges these workers in rural areas face. My personal involvement includes work with the following programs:

a. Workers' Rights Clinic

Central California Legal Services, Inc. ("CCLS"), Lang, Richert & Patch ("LRP"), and the Consulate of Mexico in Fresno ("Consulate") collaborated with Legal Aid at Work ("LAAW") out of San Francisco to create a Workers' Rights Clinic ("WRC") in Fresno in 2012. The Fresno WRC is one of nine clinics LAAW runs throughout the state and is unique in that it specifically caters to the issues faced by local low wage workers. For example, the Consulate is a collaborator of the clinic because there are insufficient Spanish speaking attorneys available to assist the number of monolingual Spanish speaking low wage claimants who partake in the clinic's services. As such, the Consulate volunteers help claimants fill out paperwork and serve as interpreters for the non-Spanish speaking attorney volunteers. Additionally, in light of the fear of ICE raids, having the Consulate as a collaborator brings a sense of ease to many of those individuals who seek the clinic's services. The WRC manual volunteers use at the clinic addresses the wage and hours rules specific to agricultural workers which ensures that volunteers are providing workers with appropriate information about their rights related to overtime and meal and rest breaks. Finally, in acknowledgment of the lack of reliable public transportation and of the Central Valley's expansive geography, the WRC is also held via Google chat in the Merced and Visalia offices of CCLS with attorneys at the Fresno WRC providing assistance. We hold the clinic the third Tuesday of every month at CCLS' offices at 2115 Kern Street, Suite 1, Fresno, California except for the month of August, during which time we hold it at the Consulate to celebrate their Labor Week. There is no clinic in December.

b. Programa de Asistencia Jurídica a Mexicanos a través de Asesorías Legales Externas en los Estados Unidos de América

I am an attorney participating in the Consulate of Mexico in Fresno's *Programa de Asistencia Jurídica a Mexicanos a través de Asesorías Legales Externas en los Estados Unidos de América* ("PALE"). The

PALE program is as a result of the growth of the Mexican community in the United States. It serves as a vital network of fifty Mexican Consular Representations in the United States who seek to provide legal advice and representation in different branches of law throughout the country. The areas PALE attorneys provide assistance include: administrative, human rights, family, criminal, civil, labor, and migratory rights.¹¹ Through the PALE program, I provide legal advice and counsel in the area of employment law to Mexican nationals in the United States.

c. Rape Counseling Services

Rape Counseling Services (“RCS”) Fresno’s mission is to end rape and sexual violence and empower survivors while supporting safe, consensual relationships.¹² Among its many services, RCS advocates provide confidential help to sexual violence survivors that is trauma-informed and culturally competent. Advocates listen and respond to requests for information without judgment and personally accompany sexual violence survivors to sexual assault forensic exams under Penal Code 264.2(b)(1). Upon request, advocates accompany survivors to law enforcement interviews or court proceedings. Finally, RCS also provides therapy and supportive service referrals and other help to all sexual violence survivors in Fresno County without consideration of immigration status.¹³ I have worked closely to help train advocates on the civil rights of survivors of sexual harassment and assault in the workplace. In addition, when appropriate, I refer survivors to RCS for counseling or other services related to their harassment and assault.

It is often the case that rural areas are talked “about” but never talked “to.” I appreciate the Council’s recognition that those individuals working in the trenches are the best versed to provide information about the most pressing issues for Central Valley residents in 2018. I would be glad to answer any questions you may have.

¹¹ Programa de Asistencia Jurídica a Mexicanos a través de Asesorías Legales Externas en los Estados Unidos de América <https://www.gob.mx/sre/acciones-y-programas/programa-de-asistencia-juridica-a-mexicanos-a-traves-de-asesorias-legales-externas-en-los-estados-unidos-de-america-pale>

¹² Rape Counseling Services Fresno, <http://rcsfresno.org/>

¹³ Ibid.