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Coalition of Farmers and Farm Advocacy Groups File Legal Challenge to New H-2A Rules

Lacey, Wash., September 16, 2024 – The Worker and Farmer Labor Association (WAFLA), North Carolina Growers Association (NCGA), Agricultural Workforce Management Association (AWMA), USA Farmers (USAF), the National Council of Agricultural Employers (NCAE), and several individual farmers filed a lawsuit today against the U.S. Department of Labor (Department) to protect America’s family farmers from the Department’s recently issued H-2A regulations, which have already been enjoined throughout much of the country.

The lawsuit, *Barton, et al. v. Department of Labor, et al.*, was filed in the U.S. District Court for the Eastern District of Kentucky. Members of the plaintiff associations include agricultural employers in virtually every state in the nation and encompass virtually every agricultural commodity produced in America.

The lawsuit seeks to have the Department’s recent H-2A Final Rule and the newly created *ad hoc* application processes enjoined as illegal. In addition to the Final Rule, which has already been enjoined in much of the country, the Department created new H-2A application procedures on September 12 without the required notice and comment rulemaking.

The Department’s actions in issuing the unprecedented Final Rule have raised significant concerns nationwide within the agricultural community. This lawsuit was necessary to safeguard farmers and producers from burdensome, costly, and unlawful requirements during a time when most labor-intensive farming operations are trying to stay viable in the face of unlimited competition from low-cost imported agricultural products. The misguided Final Rule is another unfortunate example of bad federal policy that harms American farmers and workers that further jeopardizes labor intensive domestic agricultural production.

This lawsuit follows a recent legal victory in the Southern District of Georgia where on August 26, 2024, U.S. District Court Judge Lisa Godbey Wood issued a preliminary injunction blocking the DOL Final Rule from taking effect in Georgia and 16 other states.

Judge Wood’s ruling emphasized that the Department of Labor had overstepped its legal authority by contravening the will of Congress. Specifically, Judge Wood highlighted the Department of Labor’s attempt to extend collective bargaining rights to farmworkers, noting that Congress had explicitly exempted agricultural workers from such rights under the National Labor Relations Act (NLRA).

In her decision, Judge Wood wrote, “The Final Rule conflicts with the NLRA, and the Final Rule is unconstitutional.” She further stated, “...by implementing the Final Rule,

the DOL has exceeded the general authority constitutionally afforded to agencies.
...The DOL may assist Congress, but may not become Congress.”

Judge Wood’s decision is limited to the plaintiffs in that case. Given the national implications of the Department of Labor rule, the individual farmers and associations here were compelled to file this separate legal action to seek relief from the Final Rule.

For more information or to request interviews, please contact:

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About **WAFLA**: WAFLA, d/b/a Worker and Farmer Labor Association is a leading nonprofit agricultural association dedicated to helping farmers and farmworkers navigate complex labor issues. Wafla has more than 1,300 member farms located in 9 states, including 6 states not covered by the injunction issued in the Southern District of Georgia.

About **NCGA**: North Carolina Growers Association is a joint employer of H-2A workers with their more than 600 farmer members who farm in North Carolina, Virginia and Tennessee. NCGA member farms produce more than 50 agricultural crops and commodities.

About **AWMA**: Agriculture Workforce Management Association, Inc. is based on Kentucky and files H-2A applications for its 700 shareholder member farmers in 16 states, including 9 states not covered by the injunction issued in the Southern District of Georgia.

About **USAF**: USA FARMERS is a national trade association of H-2A employers, with more than 1,500 H-2A employer members across the country.

About **NCAE**: National Council of Agriculture Employers is a national trade association focusing on agricultural labor issues with members in nearly every state in the union, including at least 32 of the 33 states not covered by the injunction issued in the Southern District of Georgia.

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