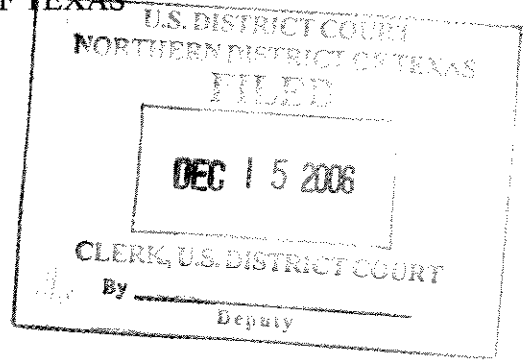


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



UNITED FOOD & COMMERCIAL WORKERS §
INTERNATIONAL UNION LOCAL 540 §
the labor union and as NEXT FRIEND §
OF FRANCISCO MATTA, ANGELA §
DAVIDSON, JOSE ACOSTA, DAVID GARZA, §
TED QUINTANILLA, ZAVIER HERNANDEZ, §
HERMAN GARCIA, JOHNATHAN RIVERA, §
RITA VILLAREAL, ANDREA JIMENEZ, §
JUAN CUARDADA, LINDA FALERO and §
HECTOR ORTIZ, and others similarly §
situated, §

Plaintiffs, §

v §

IMMIGRATION AND CUSTOMS §
ENFORCEMENT DIVISION OF THE §
DEPARTMENT OF HOMELAND §
SECURITY, JULIE L. MYERS, UNITED §
STATES DEPARTMENT OF LABOR and §
ELAINE L. CHAO, §

Defendants, §

Case No. 2-06CV-350-J

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION
[F.R.C.P. 30(a)]**

Plaintiff, United Food and Commercial Workers International Union Local 540 (UFCW) is the representative union of the bargaining unit at the Swift & Company, Cactus, Texas, packing plant and as next friend of Francisco Matta, Angela Davidson, Jose Acosta, David Garza, Ted Quintanilla, Zavier Hernandez, Herman Garcia, Johnathan Rivera, Rita Villareal, Andrea Jimenez, Juan Cuardada, Linda Falero and Hector Ortiz, and all other similarly situated detainees, by and

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through its attorneys of record, move for a Temporary Restraining Order and for a Preliminary Injunction in the above entitled cause enjoining the Defendants, and each of them, and their agents, employees, servants and/or attorneys, whichever, from proceeding with the detention of the detainees without benefit of counsel, legal advice concerning their legal rights, depriving detainees of access to union representation and the concerted effort to intercept detainees earned paychecks.

The grounds in support of this Motion are as follows:

1. That Plaintiff has herewith filed its Complaint herein on the 15th day of December, 2006, and said Complaint is likewise herewith verified with four (4) Affidavits attached thereto marked Exhibits "A" through "D" to which reference is herewith made for all purposes.

Subsequent to filing of said Complaint, Summons were issued, placed in the hands of a process server for service on all Defendants and hand delivered to Gordon Bryant, Assistant U.S. Attorney, Amarillo, Texas. Service is further being affected by Certified Mail, Return Receipt Requested this date on all Defendants.

2. The Complaint sets forth that Plaintiff's representative capacity as the labor union representing Francisco Matta, Angela Davidson, Jose Acosta, David Garza, Ted Quintanilla, Xavier Hernandez, Herman Garcia, Johnathan Rivera, Rita Villareal, Andrea Jimenez, Juan Cuardada, Linda Falero and Hector Ortiz, detainees and all other detainees similarly situated whose individual civil liberties have been infringed upon, they have been deprived their civil and constitutional rights, denied access to counsel and denied their §7 rights to representation by the union as set forth in said Complaint, as well as others, without due process of law. Further the detainees have been discriminated against by Defendants and not afforded them the equal

protection and due process clauses of the 14th Amendment to the U.S. Constitution and particularly Title 42, United States Code, Section 1981, et seq.

3. The Complaint sets forth that the detainees have been incarcerated without benefit of counsel, against their will without benefit of labor representation, in spite of demands by the union and counsel to have access and to have detainees legal rights explained. As a consequence of these actions which were and are a part of the Defendants' unlawful activities, Plaintiffs and detainees have been denied and deprived of their civil rights, civil liberties, their constitutional rights and their §7 rights to union representation. These unlawful activities are more fully described in Plaintiff's Complaint to which reference is herewith made.

4. That in depriving the detainees of their constitutional, civil and §7 rights the respondents acting in their official capacities have worked a deprivation upon the detainees without due process of law.

5. The Complaint further sets forth that the detainees were confined and restrained in the Randall County Jail and/or the U.S. Border Patrol detention facility in Amarillo, Texas, against their will without benefit of representation and to their damage and in furtherance of the Defendants' unlawful acts.

6. The detainees have been, are and continue to be discriminated against by virtue of having been heretofore arrested and unlawfully detained and held incommunicado.

7. That notwithstanding that the instant suit involves all of the parties concerned at the raid in question and the same transactions, events, actions, parties, times and places concerning the parties, the Defendants' acts in secreting the detainees and denying their constitutional rights and denying access of counsel, your Plaintiff shows that Defendants deprived

them of their constitutional, civil and §7 rights under the guise that all that was involved herein was detention short of an arrest in connection with identity theft cases.

8. Plaintiff and detainees have no adequate remedy at law.

9. If the Respondents are allowed to detain the class incommunicado without representation and continue to scatter them throughout the United States, Plaintiff and detainees will be irreparably damaged and said proceedings, if allowed to continue, will be in violation of the Statutory and Constitutional rights of the detainees.

10. The irreparable injury, loss and damage which will result and that Plaintiff and detainees will suffer is immediate by reason of the threatened action of the Defendants herein as more particularly appears in the Affidavits and Complaint filed herein. Plaintiff has, on the contrary, attempted to gain access to the detainees and Respondents have steadfastly refused to allow the union or counsel access to detainees.

11. If this Restraining Order and Preliminary Injunction be granted, the injury, if any, to Defendants herein, if final Judgment be in their favor, will be inconsiderable.

12. The Plaintiff likewise seeks the Temporary Restraining Order and Preliminary Injunction to maintain the status quo and in the interest of justice, the return of all detainees to this jurisdiction, and to avoid a multiplicity of suits.

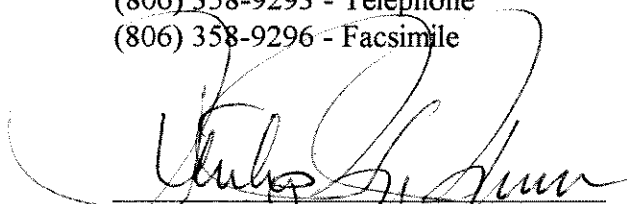
13. Plaintiff's and the detainees' damages are continuing in nature.

WHEREFORE, Plaintiff moves the Court to enter a Temporary Restraining Order and a Preliminary Injunction:

- (a) Restraining the Defendants and ICE from proceeding further and/or prosecuting the detainees, without first allowing detainees access to counsel and the union representatives concerning the transactions, events, parties, times and places;
- (b) Restraining the Defendants from further detaining your detainees and from continually depriving them counsel and union representation;
- (c) Restraining the Department of Labor from intercepting their paychecks; and
- (d) Plaintiff PRAYS for such other relief as the Court deems proper and its costs.

Respectfully submitted,
LAW OFFICES OF JERRY D. McLAUGHLIN
Jerry D. McLaughlin, SBN 13743300
600 S. Tyler, Suite 1302
Amarillo, Texas 79101
806-371-9110 - Telephone
806-373-9029 - Facsimile

LAW OFFICES OF PHILIP R. RUSS
2700 S. Western, Suite 1200
Amarillo, Texas 79109
(806) 358-9293 - Telephone
(806) 358-9296 - Facsimile



Philip R. Russ Bar No. 17406000

CERTIFICATE OF SERVICE

I certify that on this 15th day of December, 2006, a true and correct copy of the foregoing document was forwarded to the following by certified mail, return receipt requested:

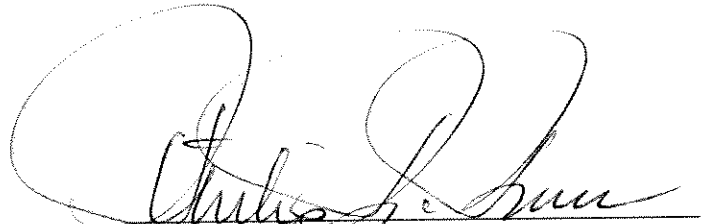
Peter D. Keisler
Assistant Attorney General
Office of Immigration Litigation
Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20444

Alberto Gonzalez
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

Gordon Bryant
Assistant U.S. Attorney
500 S. Taylor, Suite 300, LB 238
Amarillo, Texas 79101

Elaine L. Chao
Secretary of Labor
U.S. Department of Labor
Frances Perkins Building
200 Constitution Ave., N.W.
Washington, DC 20210

Julie L. Meyers
Assistant Secretary of Homeland Security for
Immigration and Customs Enforcement
425 Eye Street, N.W., Room 7100
Washington, D.C. 20536



Philip R. Russ