

Indian Guest Workers Win \$14M In Signal Trafficking Case

By **Michael Lipkin**

Law360, San Diego (February 18, 2015, 10:20 PM ET) -- A Louisiana federal jury on Wednesday awarded five Indian guest workers more than \$14 million over claims that shipbuilder Signal International LLC, an immigration lawyer and a labor recruiter lured the workers to the U.S. as part of a labor trafficking scheme with false promises of green cards.

The jury found Signal, lawyer Malvern C. Burnett's firm and Indian labor recruiter Sachin Dewan's company were liable for labor trafficking, fraud, racketeering, forced labor, discrimination, breach of contract and harassing living conditions, according to a court transcript provided by the plaintiffs' attorneys. The jury also ruled that the defendants subjected one of the workers to false imprisonment and emotional distress and retaliated against him.

Signal was ordered to pay \$12.25 million in compensatory and punitive damages, while Burnett and Dewan were each liable for \$915,000.

The workers had claimed they were subjected to forced labor and other serious abuses at Signal operations in Pascagoula, Mississippi, and Orange, Texas, after a group of nearly 500 Indian men were recruited through the H-2B program to work as welders, pipefitters and other marine fabrication workers in the aftermath of Hurricane Katrina.

After paying up to \$20,000 in recruitment fees and moving to the U.S., with some workers going into serious debt, they learned they would not be receiving the promised green cards or permanent residency status, according to the suit.

"The defendants exploited our clients, put their own profits over the lives of these honorable workers, and tried to deny them their day in court," the plaintiffs' attorney Alan Howard of Crowell & Moring LLP said in a statement. "But they persevered and after seven long years have received the justice they so well deserve."

Attorneys for the defendants did not immediately respond late Wednesday to requests for comment.

Of the cases stemming from the alleged scheme, the instant suit was the first to go to trial. The plaintiffs' attorneys called it one of the largest trafficking cases in U.S. history. A group of 12 plaintiffs first filed the suit in 2008, but were denied class certification for their trafficking claims, forcing them to

pursue the claims individually. The plaintiffs' lawyers said there are more than 200 plaintiffs whose suits are pending.

The workers alleged that once they arrived, they were forced to pay \$1,050 a month to live in a guarded labor camp in squalid conditions, with up to two dozen people crammed into a space the size of a large trailer. None of the non-Indian workers were subjected to similar conditions, according to the suit, and the plaintiffs were threatened with deportation if they complained.

Under the H-2B program, workers aren't allowed to change jobs even if they are abused, according to the plaintiffs.

"These men experienced constant stress and humiliation," the plaintiffs' attorney Dan Werner of the Southern Poverty Law Center said in a statement. "Yet, they were stuck. The defendants showed a shocking disregard for their basic human rights."

Signal issued a statement last month during jury selection, maintaining it had been approached by "labor providers and an immigration attorney" who suggested Signal could hire guest workers.

"This case involves paid workers who could leave their job at any time, were well paid, and free to come and go as they pleased," Signal said. "The only consequence of quitting their job was returning to their home country, but that restriction was dictated by U.S. immigration law, not Signal."

The workers are pursuing their Fair Labor Standards Act claims on a parallel track, asking the court last month to certify a class of about 400 plaintiffs for wage violations. Four Signal policies allegedly caused the workers' wages to fall below the then-minimum wage requirement of \$5.15 per hour and cut into their overtime.

Specifically, the workers argued that Signal maintained a policy of not reimbursing the plaintiffs for recruitment fees before the end of the first work week, of deducting the cost of tools from their wages, taking money out of their wages for living in the camps, and wrongly calculating safety bonuses.

Signal, however, shot back in late January, saying that three of the policies are "red herrings" because when viewed on their own, none of them would result in classwide violations under the FLSA.

The workers are represented by Daniel Werner, Naomi Tsu, Kristi L. Graunke, Meredith B. Stewart and Anjali J. Nair of the Southern Poverty Law Center, Tracie L. Washington of the Louisiana Justice Institute, Ivy O. Suriyopas of the Asian American Legal Defense and Education Fund, Joseph R. Bjarnson of Sahn Ward Coschignano & Baker PLLC, Chandra S. Bhatnagar of the American Civil Liberties Union, Alan B. Howard, Hugh Sandler, Melia Amal Bouhabib and Chiemi Suzuki of Crowell & Moring LLP.

Signal International is represented by Erin Casey Hangartner, Alan D. Weinberger, Hal D. Ungar, Elham R. Rabbani, Brian C. Roux, Lance R. Rydberg, Mitchell P. Hasenkampf, Robert L. Keller III, Kevin P. Maney and Lauren Masur Davis of Hangartner Rydberg & Terrell LLC and Patricia A. Bollman and James L. Cornblatt of the Bollman Firm PLC.

Burnett is represented by Timothy W. Cerniglia of The Law Office of Timothy W. Cerniglia.

Dewan is represented by Stephen H. Shapiro of Stephen H. Shapiro Attorney at Law LLC.

The case is David et al. v. Signal International LLC et al., case number 2:08-cv-01220, in the U.S. District Court for the Eastern District of Louisiana.

--Additional reporting by Allissa Wickham, Kelly Knaub and Aaron Vehling. Editing by Edrienne Su.

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