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Judge Dismisses Mexican Laborers' Suit

for Savings Taken From Pay in 40's

By BARBARA WHITAKER

LOS ANGELES, Aug. 29 — A federal judge in San Francisco has dismissed a lawsuit by Mexican laborers seeking to recoup savings withheld from their wages for work in the United States dating to the 1940's.

In his ruling, Judge Charles R. Breyer of Federal District Court wrote that he did "not doubt that many braceros never received Savings Fund withholdings to which they were entitled."

"The court is sympathetic to the braceros situation," he wrote.

But in a decision filed on Aug. 23 and received by workers' lawyers on Wednesday, he sided with the governments of Mexico and the United States and banks involved in the suit, ruling in some instances that they had sovereign immunity, and in others that the statute of limitations had expired.

Some 400,000 Mexicans worked in the United States between 1942 and 1949 under an agreement between the two nations that was designed to ease World War II labor shortages. Known as braceros, derived from the Spanish word for arm, the Mexicans worked on farms and railroads and 10 percent of their wages was deducted and held in savings accounts. The money was transmitted from American to Mexican banks and was to be given to workers when they returned.

But many braceros never received their money and some may have been unaware that it had been set aside.

United States records at the time indicate that at least \$32 million was withheld from the workers' wages. Estimates on how much money was returned vary greatly. A Mexican

report from 1946 suggested that all but \$6 million had been paid out. But advocates for the braceros contend that the workers and their heirs may be owed as much as \$500 million, including interest.

In March 2001, a class-action lawsuit seeking to require payment was filed by the braceros against the governments of the United States and Mexico, three Mexican banks and Wells Fargo Bank, which was responsible for transferring the money to Mexico.

In dismissing the claim, Judge Breyer ruled that Mexico and its banks, which were state-owned then, were covered by sovereign immunity at the time. Judge Breyer dismissed claims against Wells Fargo Bank, which had been responsible for transferring the money to Mexico, finding that lawyers for the workers had failed to state a claim against

Millions were withheld from workers in U.S.

the bank.

The judge also dismissed claims against the United States, saying that the statute of limitations had run out, but he left the door open for the suit to be reopened if it could be proved that the workers did not know of the deductions. If that was the case, the clock on the statute of limitations regarding a claim would not have started yet, said Jonathan Rothstein, a lawyer for the braceros.

He said an appeal was possible.

"I can tell you we're not going to

give up on this fight until we've thoroughly examined all our options and have exhausted them," he said.

Mr. Rothstein noted that the judge seemed to agree that the braceros had not received their savings.

"We've argued all along that the United States and Mexican governments, rather than facing up to the obligation to do what's right in this case, have always hidden behind legal technicalities," he said.

Luis Magana, whose father, Luciano Magana, 80, was a bracero from the age of 17, said efforts would continue to get what is owed to the workers. The younger Mr. Magana, a bracero organizer, noted that farm laborers were paid less than \$1 an hour during the war and many who continued in that work are now struggling to pay their bills.

"We think in this country we can find justice for all," he said.

HUELGA EN GENERAL

Hasta Mexico ha llegado
la noticia muy alegre que
Delano es diferente
Pues, el pueblo ya esta en contra
Los rancheros y engreidos
que acababan con la gente
y como somos hermanos
la alegria compartimos
con todos los campesinos

VIVA LA REVOLUCION
VIVA NUESTRA ASOCIACION
VIVA HUELGA EN GENERAL

El dia 8 de septiembre
de los campos de Delano
salieron los filipinos
y despues de dos semanas
para unirse a la batalla
salieron los mexicanos
y juntos vamos cumpliendo
con la marcha de la historia
para liberar el pueblo