



Dana R. Bowler / Star staff

Cesar Hernandez of Oxnard, who wrote the accompanying commentary, waves a flag of Cesar Chavez in front of Pictsweet in Ventura at a demonstration May 31. Religious leaders from across the United States gathered that day to support farm workers seeking a contract.

Davis has chance to bring true justice to the fields

By Cesar Hernandez

Re: Rob Roy's Sept. 22 commentary, "Imposing binding arbitration on growers, workers unjust":

Roy opposes SB1736, SB1156 and AB2596, legislative bills that would make the negotiating process more fair through a system of mediation in agricultural labor disputes.

Agribusiness wants the status quo, which is that most farm workers don't get UFW contracts. Meanwhile, the U.S. Department of Labor says 75 percent of California farm workers earn less than \$10,000 per year and 90 percent have no health coverage.

Listen to the workers at Pictsweet Mushroom Farm in Ventura. Since their company was sold to a Tennessee-based agribusiness corporation in 1987, Pictsweet workers have used all the legal tools at their disposal to reach agreement on a union contract. According to Reynaldo Arevalo of the Pictsweet Workers' Negotiating Committee: "We have compromised on key proposals in a good-faith effort to come to terms with the company. We have offered to go to both mediation and arbitration because what we want is an agreement and not a fight — offers that were refused by Pictsweet.

"We have placed charges with the state farm labor board, and Pictsweet has been found guilty of negotiating in bad faith and has been ordered to pay us back wages for what we would have made if they had properly negotiated with us. And, as a last resort, we have used the tool Cesar Chavez left us, the boycott — and thousands of consumers have stopped purchasing Pictsweet mushrooms."

But after 15 years, Pictsweet

workers still do not have a contract.

According to Roy, the existing law's "make-whole remedy," which has already been imposed against Pictsweet and other employers, is a "powerful disincentive for bad-faith bargaining."

However, Agricultural Labor Relations Board Chairwoman Genevieve A. Shiroma, in response to a request for information from a California senator, states that of the more than \$34 million in make-whole damages that the state has ordered growers to pay farm workers when the growers didn't bargain in good faith, only \$4.4 million has actually been paid.

She says this is a result of years — sometimes more than a decade — of litigation and delays. According to Shiroma, when make-whole damages "do become final, they may be unenforceable, either because the employer has gone out of business or because they are otherwise unable to pay. Conversely, by the time damages are enforceable, many of the employees to whom make-whole money is owed, have vanished."

Remember, farm labor is still a highly seasonal and transient occupation.

Ask Pictsweet workers what they think of the make-whole remedy.

Pictsweet was ordered to pay workers lost wages in June. It is now September and the company's first appeal of this decision hasn't even been heard yet. Workers can expect years of litigation before they see a cent of their money. And when and if they are paid, the company would still have no legal duty to negotiate in good faith and sign a contract.

According to Jesus Torres, another

leader of the workers at Pictsweet: "Our struggle has never been about money. What we are really fighting for is a voice in our workplace, for respect and for improvements in our medical plan so we can take care of our families. What we want is a signed contract that guarantees our rights."

No compromise that would change the status quo is suitable to growers such as Pictsweet and agricultural industry attorneys such as Roy. That is why they love the make-whole remedy.

The UFW has made major concessions to Gov. Gray Davis by offering SB1156 and AB2596. Roy claims these latest bills "do not represent a compromise." Yet the measures contain a "sunset," meaning they would expire after only five years, and require a cap of 75 cases during that period.

According to the Western Growers Association and Farm Bureau, there are roughly 86,000 farms in California. So, the UFW legislation would affect less than 1/1000th of 1 percent of all the farms in the state, a huge compromise from the unlimited number of cases that would be covered in the first bill. Some growers bargain in good faith and sign union contracts. The UFW legislation would not affect them. It was created for companies such as Pictsweet. Negotiating in good faith is not a hardship on anyone.

Gov. Davis should sign the farm worker rights bill and take a step toward creating true justice in the fields.

— Cesar Hernandez of Oxnard is a community activist and has worked for a number of years on issues affecting farm workers and their families in Ventura County.