

**“Moreno v. Tankersley”:
The Migrant Class Action of 1969**

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In the summer of 1969, Lupe Bustos, a part-time disc jockey for a local Spanish-speaking radio program, received a phone call from a group of Mexican-American farm workers with a plea for help. Bustos, who was also a Bureau of Labor employee, had been broadcasting radio communications aimed at local Hispanic migrant workers, urging them to stand up for themselves and speak up about the injustices taking place in the labor camps, an issue that the public had in recent years become increasingly aware of. The caller, an employee at Tankersley's Spanish-American Berry Farm just outside of the small town of North Plains in Washington County, Oregon, had sneaked off of the labor camp premises to use the nearest pay phone to contact Bustos about the situation in which the workers had found themselves. In addition to complaining about wages and living conditions, these workers felt like "virtual prisoners" of their employer, Ronald Tankersley.¹ A meeting was arranged at the local Catholic Church for the following Sunday, the only day the workers were able and allowed to leave the camp². This meeting would kick-off an arduous legal battle that lasted two years and proved to be a significant event in the lives of all involved, as well as a groundbreaking case in Oregon. It was not the first time issues in the migrant labor world would manage to gain the attention of both the general public and government officials, nor would it be the last.

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In the 1950's and '60's, as is the case today, the agricultural industry was of considerable importance to Oregon's economy. Moreover, Oregon's agricultural industry was at the time almost entirely dependent on migrant labor, and the presence of workers of Mexican descent in the migrant labor force was increasing with each year.³ Despite the magnitude of their contribution to the economy, migrant workers, especially those of Hispanic origin, remained an

extremely marginalized group. Living and working conditions were anything but satisfactory, and wages were generally low.⁴

Christian church groups were among the first to raise awareness about the exploitation of migrant workers by their employers. The year 1955 marked the establishment of Portland's Catholic Archdiocese's Migrant Ministry, as well as the Oregon Council of Churches' Migrant Ministry Committee.⁵ Three years later, with the idea in mind that it would be necessary to involve political leaders in their cause, the Oregon Council of Churches requested the formation of a Legislative Interim Committee on Migratory Labor.

The committee, led by Chairman Don Willner and assisted by about 300 volunteers, was charged with "obtain[ing] a comprehensive picture of migratory labor in Oregon"⁶ by "examin[ing] recruitment, transportation, wages and earning, housing, health, sanitation, education, and public welfare."⁷ The extensive study, deemed by its chairman to be "the most complete factual survey ever accomplished by any state anywhere,"⁸ uncovered what The Oregonian called "shocking conditions"⁹ in Oregon's labor camps and prompted the proposal of a series of six legislative bills to the 1959 legislature aimed at bettering the lives of Oregon's migrant workers. The bills called for:

- 1) the establishment of minimum standards of safety for transportation of workers to their places of employment (House bill 136)
- 2) the creation of a pilot education program for migrant children (HB 139)
- 3) the formation of an inter-agency committee of state agencies to oversee laws affecting migrants (HB 140)
- 4) the establishment of minimum standards of housing and sanitation for worker camps (HB 159)
- 5) the regulation and licensing of farm labor contractors (HB 160)
- 6) tax relief for farmers who improve migrant conditions (HB 161)¹⁰

Most of these bills initially met with intense opposition. In particular, House Bills 159 and 160 were the most controversial, and were vehemently opposed by many farm groups, including the Oregon Farm Bureau Federation, and various conservative elected officials who represented agricultural regions.¹¹ It is likely that these two bills were the most stiffly opposed by farmers and labor contractors due to their restrictive nature—that is, they threatened to be the most disruptive to their way of doing business. Labor camp operators managed to keep costs low by providing the bare minimum to their workers in terms of housing and sanitation. With the passage of these bills, they would do so at the risk of losing their licenses. One Oregonian story examined a different perspective on the issue. It featured a farmer who defended his own practices as well as those of other farmers in response to the findings of the Legislative Interim Committee’s survey. He claimed that, in fact, farmers had “been consistently attempting to improve migrant camps,” but found this to be quite a challenge due to the behavior of the migrant workers themselves. “The migrants,” he complained, “I don’t care what you have, they will take it. Once we had new fixtures, mattresses and beds placed in our camp. What happened? They took off with everything.” In regards to sanitation, he claimed “One year we put in toilets... But they didn’t use them.” In the end, he asserted, “the farmer was getting the short end of the stick, not the migrant.”¹² Whether or not these claims were true in the circumstance of this particular farmer, that was most likely not the case in every labor camp in Oregon.

In the end, all but one of the bills were approved. HB 161 was scrapped after a spokesperson from the Oregon Farm Bureau testified that “farmers did not want tax relief of this nature.”¹³ In his essay titled “The Role of Political Leadership in the Passage of Oregon’s Migratory Labor Legislation,” Donald Balmer attributes the passage of the five labor laws to the

skilled maneuvering and determination of political leaders like Don Willner, Tom Current, and Cecilia P. Galey as well as the efforts of various church groups, which he called “the backbone of support” for migrant labor legislation.¹⁴ Almost one year after the fact, in an article published in The Oregonian,¹⁵ Don Willner evaluated the progress of the migratory farm labor program passed by Oregon legislators. While noting that it was “far too early to draw any conclusions concerning the migrant labor program,” he offered an optimistic prognosis, stating, “The program is off to a good start.” His optimism, while not completely unfounded, would prove to be a bit premature, as stories of farm labor abuses and “unbelievable” camp conditions¹⁶ continued to surface in many of Oregon’s newspapers for years afterward.

The lawsuit of *Moreno v. Tankersley* was one such news story that happened to cause quite a stir a decade later. The class action suit, filed in the late summer of 1969 by a group of Mexican American migrant farm laborers against their employer, the owner of Ronald Tankersley’s Spanish-American Berry Farms of Oregon, once again brought to the forefront issues of mistreatment in the farming industry.

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Throughout the spring of 1969, several recruiters employed by Tankersley traveled to parts of New Mexico and Texas in order to recruit farm workers for the approaching season. It was a common practice—one that Tankersley as well as many other Oregon farmers engaged in each year. The Spanish-speaking recruiters—Slick Moore, his wife Tina Lucero, and Tankersley’s mother Darlene Harris—broadcast radio advertisements, handed out fliers, and even solicited door-to-door in their efforts to enlist workers to come to Oregon that summer. Through these fliers and radio advertisements, as well as through the verbal communications of his agents to prospective employees, Tankersley made several guarantees regarding the working

and living conditions on his farm.¹⁷ He guaranteed three months of employment (June 1st through September 1st) for each family member (3-4 years old and older) at eight or more hours a day, seven days a week, if they wished. As far as wages, recruiters made on-the-spot promises of about \$12 a day for individuals, and anywhere from about \$75 to \$200 a day for a family, depending on its size. Bonuses would be paid at the end of each harvest, as these workers would be harvesting multiple crops. Free transportation would be provided for the workers to and from Oregon. Recruiters were told they would stay in clean, furnished, “modern-style” homes, suitable for family living and maintained according to Oregon’s state health regulations. All family members would be able to sleep in their own bed with clean bedding. Each house would be equipped with a stove and refrigerator, dishes, a private bathroom with a shower, and hot and cold running water. Laundry facilities would also be available. One worker was told that the “conditions were like in his home.” In addition, free clothing, a week’s supply of free food, as well as free medical care and an on-site day care facility were promised. One flier boasted that Tankersley was “one of the Northwest’s larger growers with [an] above average production record,” and one worker was told that Tankersley’s farm “had the best crops.” Another flier enticed workers to come and enjoy “good working conditions” in “beautiful green Oregon,” where workers had a “pleasant relationship” with their employer.

By painting such an attractive picture, Tankersley’s recruiters managed to lure quite a few people up to Oregon. These men and their families, however, were not “migrant workers” in the traditional sense—that is, many had stable, somewhat well paying, permanent jobs in their hometowns in Texas and New Mexico. But the fliers, radio advertisements, and guarantees of the recruiters “sounded so promising”¹⁸ that many of them saw this as an opportunity too good to pass up. Caterino Moreno of Artesia, New Mexico, who later became the lead plaintiff, earned

\$3.13 an hour as a janitor and supplemented this income by working part-time in the alfalfa fields. Although he had “only finished the first or second grade of school,” he was doing reasonably well providing for himself and his family of ten.¹⁹ Had it not been for the persistence of Slick Moore, who “came uninvited” to Moreno’s house and “returned two or three times,”²⁰ Moreno most likely would have continued to do so. Jose Ramirez, another defendant who decided to follow the advice of one of Tankersley’s fliers, which urged him to “make a vacation to the beautiful Northwest be a profitable trip,”²¹ also had a permanent, steady job, as well as a second job from which he earned at least an additional \$100 a week. His family’s income was further supplemented during the summer by the wages earned by his teenage son. However, Ramirez was “very tired from working so many long hours and viewed the Tankersley operation as an opportunity to earn a considerable amount of money with the whole family working.”²² Another defendant, Miguel Rincon, “wanted to help his son get to college, and also his wife was sick, and he thought that with the extra money he was promised he would earn in Oregon, that he could pay for these pressing expenses.”²³ Grown men with families to support were not the only ones to take up Tankersley’s recruiters on their offers—two single high school students, Eddie Guzman and Efren Telles, aged 18 and 19, made the trip up to Oregon with the hope of earning money to pay for their education.²⁴

The workers who traveled to Oregon from Texas and New Mexico at the beginning of the summer of 1969 came because of the promises made by Tankersley’s recruiters. They relied on these promises to be true and assumed that they were engaging in a worthwhile endeavor. After arriving at Tankersley’s Spanish-American Berry Farms, they gradually began to realize that their expectations would not be met.

The first disappointment was the living conditions. Workers arrived to find that the “modern-style” homes that were supposed to be suitable for family living were in fact 12’ by 16’ single room cabins in which families of up to 14 people were expected to live.²⁵ The mattresses were “molded and damaged,”²⁶ the blankets “filthy” and “had to be washed before they could be used.”²⁷ There were only “two washing machines for over 100 people to use,”²⁸ but there was no hot water for these.²⁹ There were no private showers or private toilets, but instead communal spaces that were, at least, separated for men and women.³⁰ The water tanks on the site were in fact capable of providing adequately for a mere 20-25 people, only 10% of the camp’s total capacity of 225 people.³¹ As a result, when the workers all showered after a day of work in the fields, often the water would completely run out after just a few minutes, leaving them covered in itchy soap with no way to rinse it off.³² The cabins were plagued by faulty wiring, exposed nails, lack of proper ventilation, and inadequate heating.³³ One family sought to address the heating problem by keeping their gas hot plates on all night, not realizing the danger of the rising gas until their oldest daughter, who slept on the top bunk, became very ill.³⁴

Unsanitary conditions also presented a health hazard to the workers. According to the testimony of Dr. MacGregor Church, a local physician and journeyman electrician, the substandard construction of the cabins “permitted the entry of disease-carrying insect vectors, rodents, and parasites.”³⁵ Inadequate drainage presented a health hazard to the workers, and Dr. Church also testified that “drainage from the toilet and shower facilities [...] led to an area behind the cabins [that] was alive with flies due to the presence of human fecal material.” This contaminated drainage “permeated the sawdust on which people walked and children played.”³⁶ Another doctor summoned to testify for the plaintiffs asserted that the unsanitary conditions observed on Tankersley’s camp were the same kinds of conditions that led to wholesale

outbreaks of typhoid fever at the turn of the century.³⁷ In light of the above, it is no wonder that, according to the later testimony of Eldon Cone, the Assistant Director of Employment Division for the State of Oregon, Tankersley was in fact “not certified to recruit through the Department of Employment for the State of Oregon for 1969 because he did not meet Health Department requirements.”³⁸

The promise of free medical care also proved to be false. For at least one man, Ismael Ramos, the longstanding affects of a lack of medical attention while on Tankersley’s farm apparently caused him to be unable to work for a year, resulting in the loss of his home and his furniture back in New Mexico. Ramos was already experiencing a minor skin infection when he came to Tankersley’s farm, for which he had been seeing a doctor. When his hand condition worsened, his employer refused him prompt medical attention for an entire week, after which his hands became “grossly infected.” It took an entire year of continuous medical care after leaving Tankersley’s camp for his condition to return to normal.³⁹ It is worth mentioning that when Darlene Harris recruited Ramos, he expressed his concern about the condition of his hands. Rather than advising that he stay in New Mexico due to his condition, she “assured him that if he came it would be cured.”⁴⁰

The availability of on-site daycare for the workers’ infants and toddlers was another promise that was not fulfilled. While a facility did exist, it was a federally funded daycare program located at a nearby public school. Moreover, daycare was only available for children four years and older; most of those children were able to work in the fields with their parents and therefore did not need daycare. As a result, families with children under four were obliged to designate a family member to baby-sit—usually the mother one week and the oldest daughter the next—or to hire a babysitter. Either way, the families suffered a financial loss.

Workers soon came to find that Tankersley's guarantees regarding work availability and wages were also untrue. Caterino Moreno, for example, claimed that his family was able to work an average of only three hours a day, two to three days per week. They were ready and willing to work much more than that, but there "simply were not enough good strawberries to pick."⁴¹ In addition, one worker observed that, "some of the '*giant*' strawberries [were the size of] marbles."⁴² Workers would have to pick many more strawberries of that size to fill a flat, yet they would be paid at the same rate. Throughout the entire season, records showed that there were only three days of "good work" in which families were able to earn close to what they had been promised. On one of these days, the Moreno family earned \$100. Moreno testified that this was "not a hard day, and they could have worked equally hard every day."⁴³ Jose Ramirez claimed, "on his best day, he and his family earned \$120, and could have earned this every day if the berries had been there and work available as promised."⁴⁴ When workers asked their boss about this, they were constantly given excuses and told "tomorrow, tomorrow."⁴⁵ The workers' inability to earn what they had been promised was not only due to a lack of available work, but also because of Tankersley's practice of over-recruiting. Throughout the harvest season, they claimed, Tankersley continued to recruit workers, often drunks or other delinquents, even though there was not enough work available for them.⁴⁶

Considering the promises that were made and broken by Tankersley, it seems that these workers had every right to object to the conditions under which they were working and living. However, several factors contributed to a general feeling of fear among them, which made them reluctant to stand up for themselves. For one thing, workers felt very isolated. These workers were far from home and naturally unfamiliar with the surrounding area. They had no transportation of their own, and were not allowed to leave the camp, except to attend mass on

Sundays. If they did manage to leave, however, they faced difficulty in communicating with others due to the fact that most of them did not speak English. On the days that there was no work available, workers were “absolutely prohibited from working for other farmers.”⁴⁷ Even so, a handful of workers managed to sneak out to find work elsewhere, as long as they knew far enough in advance that there would not be work available. Eddie Guzman and Efren Telles, for example, escaped and worked for another local farmer—they were each able to earn \$30 that day. They returned to Tankersley’s camp only to find out that he was “out looking for them” and was very angry. Fearing for their safety, they hid, then escaped, and eventually hitchhiked back to New Mexico.⁴⁸

Workers felt they had legitimate reasons to fear violent consequences for “causing trouble” for their employer or for breaking the rules. Not only the men, but also the women, of the Tankersley family had a well-known reputation for violence. On one occasion, a representative of VISTA (Volunteers in Service to America) and an official of the Valley Migrant League, a non-profit migrant support agency funded by the federal government, attempted to enter the camp to discuss some federally funded programs for migrants with the workers. Although their presence had been requested by one of the workers, Tankersley, who later told The Oregonian that he had mistaken them as belonging to the Mexican-American self-help organization VIVA, did not allow them to enter the camp. Tankersley told reporters that representatives of VIVA would “repeatedly approach migrant worker families at his farm to instill ‘hate against [him].’” Regardless of the mistaken identification, a ruckus broke out when the representatives attempted to speak to some migrants in the camp. Male and female relatives of Tankersley became involved, “profane language and rough handling” occurred, and the female VISTA worker was “shoved around by a woman.” Meanwhile, “a thick crowd of

workers living in the camp gathered” and witnessed the exchange.⁴⁹ The police were called to the scene, and as one worker later described it, they “seemed to be on the side of Tankersley.”⁵⁰ Another incident that contributed to the fear of violence occurred when one worker, Hilbert Powers, was beat up, apparently because he complained about not receiving his bonus.⁵¹ Workers were also aware of their own replaceability. If they complained or caused trouble, it was easy for Tankersley to tell them to leave, as there were plenty of other workers to take their place.

Another reason for their fear was that most of these workers had families and were worried about their children’s safety and well-being as well as their own. They did not want to risk losing their jobs or getting beat up. The drunks and other delinquents who populated the camp were also a cause for concern for the families. One worker, Olivas Juarez, testified to the presence of “winos that urinat[ed] outside and exhibit[ed] themselves.” At one time, one of them “tried to break down the door of the cabin” in which he and his daughters lived. Fearing for their safety, he “felt he had to sit right by the door to protect his daughters.”⁵² All of these factors contributed to putting the workers at the mercy of their employer.

Circumstances would have most likely continued in this way had one worker not sneaked off of the camp to make the phone call to Lupe Bustos. After learning of the workers’ situation, Bustos turned to Portland Legal Aid, but was told that they were unable to take the case because they were at the time “under fire” from the Nixon administration for being “too activist.”⁵³ Still, they were interested in the case and wanted to help. They contacted Noreen Saltveit, a well-known “liberal” attorney whom they could expect to be sensitive to the plight of these migrant workers. Saltveit, who was the “sole female graduate of the University of Oregon Law School’s class of 1955,”⁵⁴ was also a fluent Spanish-speaker, having lived for a year in Mexico.⁵⁵ She

knew, however, that she did not have the time nor the resources to tackle a case like this, as she was raising four children, one of whom she was still nursing, and practicing law part-time. She was barely making ends meet, but was assured there would be plenty help from other lawyers and Legal Aid; in essence, she was told she would only be a “spear carrier” for the Mexican-American workers.⁵⁶ Wanting to “throw [herself] into a good cause”⁵⁷ while she was still young, Saltveit agreed to take the case. In the end, the promised help from other lawyers did not materialize. Saltveit, who was assisted by paralegal Karen Fink and recent law school graduate Al Sigman, later enlisted the help of her brother Bernard Kelly, also an attorney.

On August 25, 1969, Saltveit filed a class action civil complaint on behalf of the workers for breach of contract and fraud.⁵⁸ The class included about thirty-five workers—all former employees of Tankersley who had been recruited in Texas and New Mexico. The defendants included Tankersley, two of his associates Colin MacDonald and Robert Jones, and Sunset Packing Company, the food processing company with which Tankersley did business. Lawyers from two large Portland firms and one medium-sized Hillsboro firm made up the defense team. Judge Gus J. Solomon, a “compassionate,” “bright and socially conscious” judge who seemed to have a particular interest in the “David and Goliath” character of the case, was slated to preside over the trial.⁵⁹ His first action was to certify the workers as a class, rather than requiring the workers to proceed individually, in which case, according to Saltveit, they could easily be “picked off, one by one.”⁶⁰ Second, Judge Solomon bifurcated the case into two parts: one for liability, based on the false representation and breach of contract, and another for individual damages, in which plaintiffs would each have to present their own particular claims.⁶¹ This decision pleased the plaintiffs’ legal team, as it gave them the time focus all of their attention on the liability issues of the case.

It took a little less than a year for the case to go to trial. In the meantime, Saltveit and her associates busied themselves in preparation. It was not long before the demanding nature of the case began to have an effect on Saltveit's personal life, not only financially—she eventually had to advance \$2000 of her own money to pay for miscellaneous legal fees—but also emotionally. She found herself so emotionally involved in the case that, even when it seemed her marriage might fall apart, she felt she just could not let her clients down.⁶² She was acutely aware of the enormous risk each of her clients had taken in coming forward against their employer, and feared they would be in danger of retaliation if the case were unsuccessful.⁶³ The workers feared for their safety as well, reminding her time and time again, “*Señora, no podemos fracasar.* (We cannot fail).”⁶⁴ At one point later in the trial, Saltveit and several of her clients crowded into an elevator at the courthouse. When the elevator somehow became stuck, her clients panicked, afraid that Tankersley and others “had rigged the elevator and that they were all going to be killed.”⁶⁵ While these fears may have been unfounded, it illustrates the courage it took for the plaintiffs to be a part of a case against a man that they were so afraid of. At other times, the plaintiffs were able to laugh at their unfortunate situation and at their own feeling of powerlessness. There was a strong sense of camaraderie among them, and as each day passed they began to feel more like heroes to their people rather than victims.⁶⁶

While the workers were viewed “with suspicion and hostility”⁶⁷ by the attorneys of the defense team, several community organizations did in fact come forth to offer their help during this time. Church groups, like the Catholic Campaign for Human Development, and organizations like the Valley Migrant League, helped pay for various court costs as well as the plaintiffs' food and housing as many remained in Oregon in order to facilitate effective communication with the legal team.⁶⁸

Before the trial could get underway, Judge Solomon suffered a kidney sickness and became seriously ill. As a result, the case was passed on to the next in line, Judge Robert J. Belloni. Saltveit had personal experience with Judge Belloni, having earlier represented Jose Vasquez Valenzuela, a Mexican who had pleaded guilty to entering the US illegally. At the trial, Belloni had said to the defendant, “Leave our country, and don’t come back. We don’t want your kind around here.”⁶⁹ Convinced that a trial before Belloni would result in certain defeat, Saltveit tried for a postponement and was denied, leaving her no choice but to file an Affidavit of Prejudice against the judge. The affidavit asserted that the plaintiffs feared that Judge Belloni had “a personal bias and prejudice” against them “because of [their] nativity,” as he had in the past shown a certain “disdain for persons of Mexican extraction.”⁷⁰ Although this course was enormously risky for Saltveit—she placed herself in danger of career suicide if the affidavit was denied—it proved to be a critical move in the trial process. Judge Belloni removed himself from the case and it was reassigned to Judge Alfred T. Goodwin, a “fair and open-minded”⁷¹ judge who was sure to demonstrate a lack of prejudice against the plaintiffs.

On July 6, 1970, the trial officially began. As plaintiff after plaintiff testified to the promises made and broken by Tankersley, it soon became evident that Judge Goodwin could understand their Spanish quite well without the interpreter. In fact, the language “barrier” that Spanish-speakers had for so long feared to be a hindrance in the courtroom seemed to be working to their advantage, as it left the attorneys of the opposing counsel confused and insecure when Saltveit and her colleagues conversed with their clients during the recesses. Although their conversation was usually only about the weather, it still managed to create a “delightful discomfort” among the defendants’ legal team.⁷²

At the end of the plaintiff's testimony, Judge Goodwin dismissed all of the defendants except Tankersley, determining that the plaintiff's attorneys had failed to show enough evidence that they were also guilty of fraud and breach of contract. In other words, the evidence against them was only inferential—it was not strong enough to group them together with Tankersley under the same charges.

Judge Goodwin issued his opinion on August 13, 1970. He found that a breach of contract had in fact occurred in two respects. Tankersley had made false promises on which the plaintiffs relied in coming to Oregon, and he had violated “an implied covenant not to hire more workers than could earn a reasonable wage by performing available work.” That is, he had over-recruited workers. In addition, he found that the plaintiffs were not entitled to punitive damages because there was “no proof that Tankersley's recruiting promises were made in bad faith or that he intended to harm anyone by his advertising.” As a result, each plaintiff would have to file a separate, individual damage claim if they were to receive punitive damages.⁷³

While Judge Goodwin's strict ruling, as well as the dismissal of Colin MacDonald, Robert Jones, and Sunset Packing Company, might seem to suggest that he was not entirely sympathetic to the plaintiffs, it is Saltveit's opinion that he was only being overly cautious. Because of the novelty and groundbreaking nature of “Moreno vs. Tankersley”—the first federal class action on behalf of migrant farm workers—as well as the political climate at the time, a narrow ruling was necessary in order for his opinion to be upheld. Judge Goodwin knew that he was establishing a precedent; therefore his reasoning had to be airtight so that it would hold up to a challenge.⁷⁴

Over the next few weeks, Magistrate George Juba heard the plaintiffs' individual damage claims. As the process dragged on, it soon became apparent that Magistrate Juba was also a man

who was simply not sympathetic to the plaintiffs. Eventually, Saltveit received a personal phone call from Tankersley. Exasperated with the whole situation and feeling that his lawyers were “robbing him blind,” Tankersley offered a cash settlement. Saltveit consulted her clients, who were also eager to put the trial behind them. In need of money and doubtful that they were likely to receive a large amount from Tankersley—(how could they trust a long-term promissory note from someone who had already broken so many promises to them?)—they agreed to take a settlement. After some negotiation, the sum of \$10,000 was agreed upon. \$2000 was paid back to Saltveit for the money she had advanced during the trial, and the rest was divided among the 35 or so remaining plaintiffs, using a formula developed by Portland State University’s computer lab that determined their pro-rata shares based on various factors like trial participation, family size, and weeks worked. Settlement amounts for some families ranged from \$500 to \$600, and none of the remaining plaintiffs received less than \$100.⁷⁵

Considering the amount the plaintiffs had originally asked for—a total of \$196,872.41, including interest and court costs,⁷⁶—it may seem that the sum of \$10,000 was not a fair settlement. But according to their attorney, “the workers had never expected to get rich off [the] case.” Instead, “the principle of being treated with honesty and respect was what essentially motivated the workers all along.” That is, the monetary gain was simply an added bonus to the restoration of their honor and dignity. In the end, what mattered most was that the plaintiffs were happy with the settlement and saw it as fair.⁷⁷

The outcome of “Moreno v. Tankersley” had a tremendous effect on Oregon’s growing Hispanic community, especially in the Portland area. At a time when the presence of an interpreter in the courtroom was quite rare—Saltveit had once represented a Spanish-speaking client in a trial where she had to act as both attorney and translator⁷⁸—the decision proved that

those who did not speak English had access to the courts and a voice in the legal system. The success of the case was also a source of hope and encouragement to various existing Hispanic community organizations, such as the Centro Chicano Cultural, the Virginia Garcia Clinic, Colegio Cesar Chavez, and the Migrant Health Clinic.⁷⁹ The “ripple effect” reached even as far as the nation’s capital, when the Catholic Campaign for Human Development helped to send a group of farm workers, whom Saltveit felt privileged to accompany, to Washington, D.C. to testify before Congress and lobby for legislation to fund what later became Migrant Legal Services. Testimony regarding the Moreno case in particular was significant because it demonstrated a need for a legal aid organization specifically for migrants.⁸⁰ For Saltveit, the case was a turning point in her career. Soon afterwards, she established the public interest law firm Marmaduke, Aschenbrenner, Merten and Saltveit with a few like-minded colleagues. The skills and knowledge she had gained through the Moreno case were later applied in several class action lawsuits on behalf of both minorities and women. As a result of Judge Goodwin’s precedent-setting opinion, more judges in Oregon began looking at cases like “Moreno v. Tankersley” with increased open-mindedness.

As with any issue, it would be unfair to draw conclusions about “Moreno v. Tankersley” without also examining the other side of the case. Throughout the trial, Tankersley’s defense was that he had actually done more for the workers than he was obligated to: “by allowing nurses and nursing aides to enter the camps, by providing food, bedding, clothing and laundry facilities, and by providing bus transportation or paying gasoline money to the workers.” Furthermore, his attorneys asserted that work was available for Tankersley’s employees, but that most of them “were not used to Oregon weather and they refused to work when it was rainy or cold.” As proof of the availability of work on Tankersley’s farm, they claimed that Tankersley lost 200 tons of

fruit throughout the picking season of 1969, pointing out that it would be ridiculous to assume that he would deliberately allow the berries to rot on the vine. Tankersley's lawyers also maintained that their client had suffered a loss of \$16,000 on his 1969 income tax as a result of his employees' refusal to work.⁸¹

Tankersley himself is no longer able to comment on the case due to the fact that he now suffers from Alzheimer's disease. However, his daughter, Darla Tankersley, agreed to an interview, in which she offered an interesting perspective on the case. In defense of her father, she emphasized the challenges he faced running an operation as large as the Tankersley farm. In a sense, it was "like running a city," she said, and to do so without running into problems now and then would have been impossible. Given the inefficiency of payroll methods at the time—the Tankersley's utilized a card-punching system for tracking the amount of labor performed by the hundreds of workers they employed—there were bound to be mistakes. Ms. Tankersley pointed out that with such an imperfect system, at times workers were underpaid, but at others it was possible that they were paid too much. A minor discrepancy in one or two workers' paychecks was sometimes enough to get the entire camp riled up. In addition, frequent soliciting from attorneys and representatives from various organizations (which, Ms. Tankersley contended, her father did allow to enter the camp) did nothing to help maintain order among the workers in the camp. There was always criticism and endless gossip around town about what was going on in the Tankersley camp. Ms. Tankersley claimed that she and her brothers and sisters even had a hard time at school and encountered violence from people in town. It was her father, however, who endured the most violent attacks from townspeople. Some were angry for the way they thought he treated his workers, others because his farming operation was partly responsible for the increase of the Mexican population in their area.

Despite the difficulty of growing up the daughter of an unpopular migrant labor camp operator, Ms. Tankersley looked back on her childhood and insisted that she “wouldn’t change a thing about it.” The camp, she recalled, was “a world of its own”—one in which she felt the employer and employees were all like “one big family.” The Tankersleys took workers into their home when there was no room for them in the camps and ran what seemed like a “soup kitchen” to feed the workers each day. The Tankersley children shared their beds with the children of the workers. According to Ms. Tankersley, she and her brothers and sisters received no special treatment, but rather they worked right alongside the migrant children in the fields. Tankersley’s “over-recruiting,” she said, was actually due to the fact that he would not turn any worker away. In fact, he had a reputation for employing anyone that was willing to work if they were hungry and needed a place to stay. At one point, she remembered, her father put bunk beds in the horse stalls in order to create more places for the workers to sleep. Her mother fervently objected, warning that if photographers published pictures of that in the paper they would be criticized for treating their workers like animals. Tankersley insisted, however, that he had to make room for more, as he could not turn them away. Ms. Tankersley maintained that she continues to have a close relationship with many of the migrant worker families today—though none, obviously, who were involved in the Moreno case.

Ms. Tankersley held that her father and his farming operation was “made an example of” with the Moreno case. Although the conditions in his camp were no different from those on nearby farms, his, in particular, was an easy target for public scrutiny—it was the biggest camp, and the first one would encounter when traveling up Pumpkin Ridge Road. She also contended that her father was one of the only farmers who would allow attorneys and other representatives onto his farm—until, of course, he “learned his lesson.”

Tankersley sold his farm in 1993. The owner today is not running a farm on the property and the cabins that housed the workers were recently burnt down. According to Ms. Tankersley, only one of the many farms that once operated in North Plains is still in business, a fact that she blamed on the legal “crackdown” on farming practices in the aftermath of the Moreno case. She noted that in Saltveit’s footsteps followed many attorneys who sought to make a name for themselves in the legal world, knowing that pro bono work for minorities that could be depicted as victims, especially farmworkers, was an appropriate avenue to do so. In essence, she argued, it was the legal system that “killed” the small farming industry.⁸²

The legal and social implications of “Moreno v. Tankersley” were significant. A landmark case, it not only opened up the courts to non-English speakers who had for so long been virtually excluded from involvement in the legal process, it also marked the first successful class action lawsuit on behalf of migrant farm workers. As Karen Fink noted in her written nomination of Noreen (Saltveit) McGraw for the 1995 Professionalism award, the case challenged “the entrenched, fraudulent and degrading farming and recruiting practices” of labor contractors, the acceptance of which “was a tradition in Oregon and throughout the United States.” To do so, Fink noted, was as unpopular as it was uncommon in the 1960’s.⁸³ But while optimistic progressives may like to think of “Moreno v. Tankersley” as a cure-all to the deep-seated injustices in farm labor, it is questionable how effective it really was in bettering the lives of the workers that harvest our food. It can be argued that the “crackdown” on the farming industry’s employment practices of the 1950’s and ‘60’s, of which the Moreno case was a part, had a long-term negative affect on farm workers, as it encouraged labor contractors to “fly under the radar,” and employ strictly undocumented immigrant workers who would certainly have even less of a voice in the legal system. Corruption is still rampant in the farm labor industry—it is an

issue that runs extremely deep in the system. It has not disappeared; if anything, it has only become more disguised because it is now not as socially acceptable to openly exploit workers. “Moreno v. Tankersley” and its after-effects were hardly a panacea to the problems that plague the agricultural industry in Oregon and throughout the United States; these problems will continue to plague it as long as our country as a whole remains dependent on cheap agricultural labor.

¹ Noreen (Saltveit) McGraw, Watershed Years: The Migrant Worker Class Action Case, chapter in an unpublished memoir, furnished by McGraw, in possession of the author: 1.

² Noreen McGraw, telephone interview, 5 November 2005.

³ An inference based on data from the following two sources: 1) Donald Balmer, Migratory Labor in Oregon (Portland, Legislative Committee on Migratory Labor, 1958), 12, and 2) "U. S. Attorney Checks Farm Dispute Claims," The Oregonian, 12 August 1969, 11.

⁴ Lynn Stephen, The Story of PCUN and the Farmworker Movement in Oregon (Eugene: Lynn Stephen and PCUN, 2001), 9.

⁵ *Ibid.*

⁶ Donald G. Balmer, "The Role of Political Leadership in the Passage of Oregon's Migratory Labor Legislation," The Western Political Quarterly, Vol. 15, No. 1, 1962, 149.

⁷ Lynn Stephen, 9.

⁸ qtd. in Balmer, 150.

⁹ Joe Bianco, "Shocking Conditions in Migrant Labor Camp Revealed in Survey Team Report," The Oregonian, 21 July 1958, 9.

¹⁰ Harold Hughes, "Labor Council Backs Migrant Aid Bills," The Oregonian, 24 February 1959, 4, and Don S. Willner, "Farm Labor Laws Approved," The Oregonian, 19 October, 1959, 16.

¹¹ Balmer, The Role of Political Leadership, 151, 153.

¹² Joe Bianco, "Farmer Raps Migrant Camp Report," The Oregonian, 10 August 1958, 27.

¹³ Don S. Willner, "Farm Labor Laws Approved," The Oregonian, 19 October 1959, 16.

¹⁴ Balmer, The Role of Political Leadership, 151-156.

¹⁵ Willner, "Farm Labor Laws."

¹⁶ James Lattie, "'Unbelievable' Camps Spur Official Action," The Oregonian, 8 July 1962. (Coincidentally, this article discusses the revocation of the license of the labor contractor of two migrant labor camp operators—one of which happens to be Frank Tankersley, a relative of Ron Tankersley's.)

¹⁷ The following information is a compilation of data extracted from the following sources housed at the National Archives Pacific Alaska Region in Seattle, WA. (Civil No. 69-481, accession no. 74-A711, box no. 61, location no. 9832): 1) Noreen Saltveit, "Trial Memorandum and Plaintiffs' Witness Summary" 2) "Exhibit B," and 3) John Dominguez, letter.

¹⁸ Saltveit, "Trial Memorandum," 178.

¹⁹ *Ibid.*, 177.

²⁰ *Ibid.*, 176.

²¹ *Ibid.*, 174.

²² *Ibid.*, 178.

²³ *Ibid.*, 182.

²⁴ *Ibid.*, 185.

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- ²⁵ “Picker Alleges Farmer Made False Promises,” The Oregon Journal, 7 July 1970, 25.
- ²⁶ Saltveit, “Trial Memorandum,” 168.
- ²⁷ Manuel Ruiz, letter, in case file at National Archives.
- ²⁸ Arturo Hernandez, letter, in case file at National Archives.
- ²⁹ Saltveit, “Trial Memorandum,” 176.
- ³⁰ *Ibid.*, 176.
- ³¹ *Ibid.*, 168
- ³² McGraw, interview.
- ³³ Saltveit, “Trial Memorandum,” 168.
- ³⁴ *Ibid.*, 182
- ³⁵ *Ibid.*, 168.
- ³⁶ *Ibid.*, 168-9.
- ³⁷ McGraw, interview.
- ³⁸ Saltveit, “Trial Memorandum,” 173.
- ³⁹ *Ibid.*, 179
- ⁴⁰ *Ibid.*, 179-80
- ⁴¹ *Ibid.*, 176
- ⁴² Daniel P. Carrasco, letter, in case file at National Archives.
- ⁴³ Saltveit, “Trial Memorandum,” 176.
- ⁴⁴ *Ibid.*, 178.
- ⁴⁵ *Ibid.*, 183.
- ⁴⁶ McGraw, interview.
- ⁴⁷ Saltveit, “Trial Memorandum,” 177.
- ⁴⁸ *Ibid.*, 185.
- ⁴⁹ “U. S. Attorney Checks Farm Dispute Claims,” The Oregonian, 12 August 1969, 11.
- ⁵⁰ Saltveit, “Trial Memorandum,” 178.
- ⁵¹ *Ibid.*, 177.
- ⁵² *Ibid.*, 183
- ⁵³ McGraw, Watershed Years, 2.
- ⁵⁴ Karen Fink, letter to Lois Rosenbaum nominating Noreen Saltveit for the 1995 Professionalism Award, 20 January 1995. (Furnished by Noreen McGraw, in possession of the author.)
- ⁵⁵ Noreen (Saltveit) McGraw, email communication to author, 19 September 2005.
- ⁵⁶ McGraw, email.
- ⁵⁷ McGraw, Watershed Years, 3
- ⁵⁸ “Workers Suit Against Berry Farmer Charges Contract On Wages Broken,” The Oregonian, 26 August 1969, 13.
- ⁵⁹ McGraw, Watershed Years, 9
- ⁶⁰ McGraw, Watershed Years, 9.
- ⁶¹ *Ibid.*, 9.
- ⁶² McGraw, interview.
- ⁶³ McGraw, Watershed Years, 7.
- ⁶⁴ *Ibid.*, 11.
- ⁶⁵ McGraw, interview.
- ⁶⁶ *Ibid.*
- ⁶⁷ Fink, letter.
- ⁶⁸ McGraw, Watershed Years, 10.
- ⁶⁹ McGraw, interview.
- ⁷⁰ “Plaintiff’s Affidavit and Attorneys’ Certificate of Prejudice,” in case file at National Archives.
- ⁷¹ McGraw, Watershed Years, 14
- ⁷² *Ibid.*, 14-15
- ⁷³ “Washington County Berry Grower Ruled Guilty of Breaching Migrant Pact,” The Oregonian, 14 August 1970.
- ⁷⁴ McGraw, interview.
- ⁷⁵ McGraw, interview, and memoir 16.
- ⁷⁶ In case file at National Archives.
- ⁷⁷ McGraw, Watershed Years, 16-17.

⁷⁸ McGraw, interview.

⁷⁹ McGraw, Watershed Years, 17.

⁸⁰ McGraw, interview.

⁸¹ “Farmworker Case Nearing Windup,” The Oregon Journal, 6 August 1970, 13.

⁸² Darla Tankersley, telephone interview, 8 November 2005.

⁸³ Fink, letter.