

# Agricultural Labor Relations Forum 2019

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U.S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION

# Georgia investigations

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## FY 2018

- ❑ Number of investigations: 32
- ❑ 44% with civil money penalties (14 cases)
- ❑ Civil money penalties: \$375,000
- ❑ 44% with back wages (14 cases)
- ❑ Back Wages: \$184,175
- ❑ Number of workers: 358
- ❑ Violation rate: 44%

## FY 2019

- ❑ Number of investigations: 30
- ❑ 33% with civil money penalties (10 cases)
- ❑ Civil money penalties: \$156,600
- ❑ 10% with back wages (3 cases)
- ❑ Back Wages: \$65,631
- ❑ Number of workers: 97
- ❑ Violation rate: 33%

# Recent cases / Press releases

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DECEMBER 7, 2018

[Florida Farm Labor Contractor Pays \\$53,428 in Back Wages After Failing to Meet Requirements of U.S. Department of Labor's H-2A Visa Program](#)

**MT. DORA, FL** – After an investigation by the U.S. Department of Labor's Wage and Hour Division (WHD), SOL Harvesting LLC – a Haines City, Florida, farm labor contractor – has paid \$53,428 in back wages for violating labor provisions of the H-2A visa program.

# Recent cases / Press releases

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FEBRUARY 19, 2019

[U.S. Department of Labor Investigation Results in Florida Tomato Packing Company Paying \\$87,920 to 109 Employees in Back Wages](#)

**PALMETTO, FL** – After an investigation by the U.S. Department of Labor's Wage and Hour Division (WHD), Utopia Fresh South LLC – operating as Taylor & Fulton Packing LLC in Palmetto, Florida – has paid \$87,920 in back wages to 109 employees for violating overtime and recordkeeping requirements of the Fair Labor Standards Act (FLSA).

# Recent cases / Press releases

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MARCH 13, 2019

[U.S. Department of Labor Investigation Results in Florida Farm Paying \\$18,844 in Back Wages to 14 Employees for Wage Violations](#)

**OCOEE, FL** - After an investigation by the U.S. Department of Labor's Wage and Hour Division (WHD), Lake Meadow Naturals LLC – an agricultural employer based in Ocoee, Florida – has paid \$18,844 in back wages to 14 employees for violating overtime, recordkeeping, and child labor provisions of the Fair Labor Standards Act (FLSA).

# Recent cases / Press releases

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AUGUST 19, 2019

[Federal Court Sentences Eastern Kentucky Landscape Owner After U.S. Department of Labor Investigation](#)

**FLATWOODS, KY** – After an investigation by the U.S. Department of Labor's Wage and Hour Division (WHD), the U.S. District Court for the Eastern District of Kentucky has sentenced Michael Anthony Wheeler – owner of Tri-State Lawn Care Inc. operating in Kentucky, Ohio, and West Virginia – to serve five years on unsupervised probation and ordered him to pay \$327,087 in back wages to 17 employees for violating requirements of the Fair Labor Standards Act (FLSA) and the H-2A visa program. \$125,000 in CMPs and **10 year debarment from H2A.**

# Recent cases / Press releases

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[Moultrians charged in human trafficking case in Wisconsin ...](#)

<https://www.moultrieobserver.com> › [news](#) › [local\\_news](#) › [moultrians-charge...](#)

May 30, 2019 - Moultrians charged in **human trafficking** case in **Wisconsin**. By Kevin C. ... All of the land is in south **Georgia**, and most of it in Colquitt County:.

In an indictment announced last week, the U.S. Attorney's Office for the Eastern District of Wisconsin said Saul Garcia, 49, of Moultrie; Saul Garcia Jr., 26, of Moultrie; Daniel Garcia, 28, of Moultrie; Consuelo Garcia, 45, of Moultrie; and Maria Remedios Garcia-Olalde, 52, a Mexican national, have been indicted on charges of conspiracy to commit forced labor, labor trafficking, and five additional labor-related offenses.

According to the indictment, the defendants brought Mexican nationals into South Georgia under the federal H2A program. They allegedly falsified documents to indicate the workers would work only in South Georgia but then transported them to Wisconsin to work as well.

# Debarments 2019

[https://www.foreignlaborcert.doleta.gov/pdf/Debarment\\_List\\_Revisions.pdf](https://www.foreignlaborcert.doleta.gov/pdf/Debarment_List_Revisions.pdf)

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- ❑ Beiza Brothers – GA
- ❑ Catarina Garcia – GA
- ❑ Erika Rosalez – GA
- ❑ J. Rivera Harvesting – FL
- ❑ Jesus Contreras – GA
- ❑ Lakeisha Wilcox – GA
- ❑ Laura Orellana – GA
- ❑ Ruben Serna – NC
- ❑ S&J Labor Contractors - GA



# H-2A Statistics FY 2018-2019

Review of Positions Certified FY 2018 (% of total certified FY 2018)			
Top 10 States	Georgia	32,364	13.3%
	Florida	30,462	12.5%
	Washington	24,862	10.2%
	North Carolina	21,794	9.0%
	California	18,908	7.8%
	Louisiana	10,079	4.2%
	Michigan	8,359	3.4%
	New York	7,634	3.1%
	Kentucky	7,604	3.1%
	Arizona	7,497	3.1%

Review of Positions Certified FY 2019 YTD (% of total certified FY 2019 YTD)			
Top 10 States	Georgia	25,463	12.3%
	Washington	23,400	11.3%
	Florida	22,473	10.9%
	California	19,824	9.6%
	North Carolina	18,129	8.8%
	Louisiana	7,525	3.6%
	Kentucky	7,386	3.6%
	Michigan	6,567	3.2%
	Arizona	5,018	2.4%
	South Carolina	4,951	2.4%

	FY18	Q1	Q2	Q3	Q4
Positions Certified	242,762	31,862	80,311	81,228	49,361

	FY19	Q1	Q2	Q3	Q4
Positions Certified	206,540	35,459	88,305	82,776	--

# U.S. Worker Protections

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- ❑ H-2A workers given preferential treatment
- ❑ Unlawful rejection of U.S. workers
- ❑ Failure to satisfy requirements of the job order (location, duties, hours, etc.)

# Disclosure

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- Failure to provide copy of H-2A contract (to H-2A workers and U.S. workers in corresponding employment)
- Poster

# Wage Related Violations

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- Meals vs Kitchen facilities
- Inbound transportation requirements
- Outbound transportation requirements
- $\frac{3}{4}$  Guarantee
- Required rate of pay
- Unlawful deductions
- Unlawful cost-shifting
- Housing charges

# Recordkeeping

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- Why hours worked are fewer than hours offered
- Payroll records
- Paycheck stubs

# Housing

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- Failure to meet safety and health requirements
- Failure to notify SWA of change in certified housing
- Motels (State and Local codes)

# Transportation

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- Failure to meet safety requirements
- Driver's license

# Legal Requirements

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- Waiver of rights
- Failure to cooperate with investigation
- Failure to follow all applicable laws
- Failure to contractually forbid cost-shifting
- Intimidate, threaten



# H-2ALC Only Violations

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- Invalid “fixed-site” information
- Invalid MSPA FLC information

# And finally, other issues

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- Fraud
- Trafficking
- Recruitment fees
- Growers
- MSPA, FLSA, OSHA
- Increased scrutiny
- Debarment
- Revocation