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Plaintiffs allege Sanderson Farms hired illegal immigrants

Staff Reports

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MOULTRIE — Two former employees of Sanderson Farms have filed a class action lawsuit against the chicken processor's Moultrie plant, alleging it intentionally hired illegal immigrants so as to keep labor costs down.

Attorneys for Melissa Simpson and Sabrina Roberts filed suit in U.S. District Court Feb. 16. Defendants in the case include Perry Hauser, complex manager until 2011; Jeff Black, assistant plant manager until either 2010 or 2011; Demisha Croft, human resources manager at the plant until 2010; three former human resources clerks, Aristides Carral-Gomez, Janie Perales and Karina Fondon, all of whom left those positions in 2009 or 2010; Jennifer Harrison Buster, Sanderson's current corporate human resources manager; and the corporation itself.

It also alleges other co-conspirators whose identities were not known.

The suit claims seven violations of the federal and state Racketeer Influenced and Corrupt Organizations Act (the RICO Act). Some counts apply to some defendants and some to others. Sanderson Farms itself is a defendant in only one count of violating the state RICO Act and none at the federal level.

A message left for Sanderson Farms' corporate spokesman was not returned Tuesday.

Sanderson Farms is Colquitt County's largest employer with more than 1,500 employees, according to the lawsuit. In addition, it has contracts with a number of South Georgia poultry operations, and it operates a feed facility in Adel.

Among the reliefs sought through the lawsuit are injunctions that could drive Sanderson Farms from Georgia entirely.

Simpson and Roberts, both of whom worked for Sanderson Farms' Moultrie plant within the last four years, claim that the plant's human resources department falsely affirmed that new hires had proper documentation to meet federal immigration requirements.

"In order to open the plant and keep it operational going forward, the defendants needed to initially staff the plant and keep it fully running on a daily basis," the suit claims. "Buster and the corporate manager coconspirators directed the plant manger defendants to hire any person who could produce identification documents required by the Department of Homeland Security's Form I-9, Employment Eligibility Verification Form, regardless of whether the IDs looked real/genuine, and regardless of whether the IDs

related to the person tendering them. The plant manager defendants then instructed the HR clerk defendants to conduct hiring in this manner, which they did, the suit claims.

“As a result,” the allegation continues, “during this time period, hundreds of illegal aliens were hired by the HR clerk defendants using IDs that were obviously fake, including: (a) IDs with pictures that appeared to have been cut and pasted from another document and then re-laminated on the ID, making it feel thicker; (b) photographs with images of more than one face; (c) IDs issued from Mexico; and/or (d) IDs which were not issued from the U.S. government or any state. (This is a non-exhaustive list of common examples of fake/fraudulent documents.)”

The suit says plant nurses, who had to perform physicals on new hires, noticed the apparently fraudulent IDs and brought them to the attention of the human resources clerks and the plant managers. It says they dismissed the nurses' concerns.

“The nurses also discussed these problems with the plant manager defendants and defendant Buster,” the suit claims. “Defendants Buster, Hauser, Black, and Croft all responded in the same general way: ‘It did not matter [that the IDs did not look real] as long as they passed the I-9 process.’ Defendant Hauser even commented on at least one occasion that ‘they [the individuals with bad IDs] were good workers.’”

In December 2008, the Department of Homeland Security conducted an enforcement action at the Moultrie plant and arrested 25 illegal immigrants.

“A few days prior to this enforcement action, the plant manager defendants circulated a list of illegal alien workers to floor supervisors,” the suit alleges. “Afterwards, Hauser, Black, and other unnamed plant supervisors/managers held at least one meeting to ‘tip off’ illegal alien workers about the imminent raid. (At least one of these meetings was held in the plant’s orientation room after second shift the night or two before the actual raid.) The managers/supervisors in the meeting used walkie-talkies to request that the floor supervisors send the workers who appeared on the list to the orientation room. Within a few minutes, 50-60 illegal aliens gathered in the meeting.

“During this meeting, Shay Ward, one of the plant's HR managers, told the group of workers not to come into work on Friday (the day of the anticipated raid) if they did not have their paperwork in order,” the allegation continues. “Paychecks were then distributed to each worker at the meeting, ahead of the normally scheduled Friday payday. Many workers who were at the meeting did not come to work on that Friday.

“In the weeks and months following the DHS raid, defendants Fondon and Perales were terminated by Sanderson for their role in hiring illegal aliens in order to give the illusion that the company had a policy of following the law,” the suit claims. “But according to Perales, she was fired for following the directions she was given by her superiors.”

After the DHS raid, the plant changed policies to make it harder to use fake identification, the suit says. Instead, the company started using the federal E-Verify system.

“E-Verify, a voluntary internet verification program, only confirms that government-issued eligibility documents were actually issued and the name of the person to whom they were issued,” the suit says. “However, it does not establish that the person presenting the documents is, in fact, the issue. In other

words, E-Verify does not prevent against identity theft or assuming a legal worker's identity.”

The suit alleges that Buster, through the plant managers, ordered human resources clerks to ignore any sign of identity theft and affirm the eligibility of any applicant if they passed E-Verify.

The suit claims that Sanderson can pay less per hour by hiring illegal immigrants than by hiring citizens, thus saving millions of dollars.

The plaintiffs have asked the court for injunctive relief as well as monetary damages; punitive damages; attorney fees and court costs; and for a revocation of Sanderson's license to do business in Georgia.